

Alison V. Lippa, No. 160807  
Alan P. Jacobus, No. 206954  
Vance A. Woodward, No. 231730  
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San Francisco, CA 94104  
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Attorneys for Defendant The Continental Insurance Company

**CONFORMED COPY**  
OF ORIGINAL FILED  
Los Angeles Superior Court

JUN 19 2008

John A. Clarke, Executive Officer/Clerk

By [Signature] Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

CYPRUS AMAX MINERALS  
COMPANY, ET AL.,

Plaintiffs,

versus

CONTINETAL CASUALTY  
COMPANY, ET AL.,

Defendants.

No. BC 391068

**DECLARATION OF DAVID LEHMAN IN  
SUPPORT OF THE CONTINENTAL  
INSURANCE COMPANY'S MOTION TO  
DISMISS OR STAY THE ACTION BASED ON  
FORUM NON CONVENIENS**

I, David Lehman, declare:

1. I make this declaration based on personal knowledge pursuant to Section 2015.5 of the California Code of Civil Procedure, and Rule 3.1342(a) of the California Rules of Court.

2. I am the Assistant Secretary of CNA Financial Corporation ("CNAF").

3. CNAF is a corporation organized under the laws of the State of Delaware, and it maintains its principal place of business in Chicago, Illinois. CNAF is a publicly-traded holding company created for, among other things, the purpose of holding the common stock of operating subsidiaries for the benefit of CNAF's shareholders.

4. The Continental Insurance Company, a plaintiff in this action, is a wholly-owned subsidiary of Continental Casualty Company, which is itself a wholly-owned

CBM-IPG\SF408387.1

DECLARATION OF DAVID LEHMAN IN SUPPORT OF CONTINENTAL'S MOTION TO DISMISS

COPY

1 subsidiary of The Continental Corporation. The Continental Corporation is a wholly-  
2 owned subsidiary of CNAF.

3 5. Throughout the period from before January 1, 1975 to after April 1, 1986,  
4 The Continental Insurance Company maintained its corporate headquarters in New York,  
5 New York.

6 6. The Continental Insurance Company was incorporated under the laws of  
7 New York in January 1853, and The Continental Insurance Company remained a New  
8 York corporation until June 1977.

9 7. In June 1977, The Continental Insurance Company merged with and into a  
10 New Hampshire domestic company and the state of incorporation for the merged  
11 company named The Continental Insurance Company became New Hampshire.

12 8. On January 1, 2004, The Continental Insurance Company moved its state of  
13 incorporation from New Hampshire to South Carolina.

14 9. On October 1, 2006, The Continental Insurance Company moved its state of  
15 incorporation from South Carolina to Pennsylvania.

16 10. Before 1995, The Continental Insurance Company had no affiliation with  
17 CNAF or Continental Casualty Company.

18 11. In 1995, CNAF acquired The Continental Corporation and its subsidiaries  
19 which included The Continental Insurance Company.

20 12. Since 1995 as a subsidiary of CNAF, The Continental Insurance Company  
21 has been one of several insurance companies authorized to use the "CNA" service mark  
22 and trade name in its business activities.

23 ///

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28 ///

1           13. Since before 1975, Continental Casualty Company has been one of several  
2 insurance companies authorized to use the "CNA" service mark and trade name in its  
3 business activities.

4           I certify under penalty of perjury under the laws of the State of California that the  
5 foregoing is true and correct.

6  
7           06/16/2008  
8           Date

David Lehman  
          David Lehman

Alison V. Lippa, No. 160807  
Alan P. Jacobus, No. 206954  
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

CYPRUS AMAX MINERALS  
COMPANY, ET AL.,

Plaintiffs,

versus

CONTINETAL CASUALTY  
COMPANY, ET AL.,

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No. BC 391068

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SUPPORT OF THE CONTINENTAL  
INSURANCE COMPANY'S MOTION TO  
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I, David Lehman, declare:

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DECLARATION OF DAVID LEHMAN IN SUPPORT OF CONTINENTAL'S MOTION TO DISMISS

COPY

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9 7. In June 1977, The Continental Insurance Company merged with and into a  
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12 8. On January 1, 2004, The Continental Insurance Company moved its state of  
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17 CNAF or Continental Casualty Company.

18 11. In 1995, CNAF acquired The Continental Corporation and its subsidiaries  
19 which included The Continental Insurance Company.

20 12. Since 1995 as a subsidiary of CNAF, The Continental Insurance Company  
21 has been one of several insurance companies authorized to use the "CNA" service mark  
22 and trade name in its business activities.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1           13. Since before 1975, Continental Casualty Company has been one of several  
2 insurance companies authorized to use the "CNA" service mark and trade name in its  
3 business activities.

4           I certify under penalty of perjury under the laws of the State of California that the  
5 foregoing is true and correct.

6  
7           06/16/2008  
8           Date

David Lehman  
          David Lehman

Deborah A. Aiwasian, No. 125490  
**BERMAN AIWASIAN**  
725 South Figueroa Street, Suite 1050  
Los Angeles, CA 90017

Telephone: 213.833.3200

Facsimile: 213.833.3230

Email: deborah.aiwasian@mclolaw.com

Attorneys for Defendant Century Indemnity Company

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JUN 19 2008

John A. Clarke, Executive Officer/Clerk

By [Signature] Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

CYPRUS AMAX MINERALS  
COMPANY, et al.,

Plaintiffs,

versus

CONTINENTAL CASUALTY  
COMPANY, et al.,

Defendants.

No. BC 391068

**DECLARATION OF MARGO DEDEYAN IN  
SUPPORT OF THE CONTINENTAL  
INSURANCE COMPANY'S AND CENTURY  
INDEMNITY COMPANY'S MOTION TO  
DISMISS OR STAY THE ACTION BASED ON  
FORUM NON CONVENIENS**

Hearing Date: August 27, 2008

Hearing Time: 8:30 a.m.

Dept.: 68

Room: 617

Judge: Hon. Judge Mooney

Complaint Filed: May 20, 2008

I, Margo Dedeyan, declare as follows:

1. I am employed as a Claims Specialist at Resolute Management, Inc.-Mid-Atlantic Division ("Resolute"). Resolute performs claims management services for defendant Century Indemnity Company ("Century").

2. My responsibilities include the handling of claims submitted to Century by Freeport-McMoRan Copper and Gold Inc. ("Freeport-McMoRan").

3. I submit this Affidavit in support of The Continental Insurance Company's ("CIC") and Century's motion to dismiss or stay this action based on *forum non conveniens*.

4. Century is located in Philadelphia, Pennsylvania.

DECLARATION OF MARGO DEDEYAN IN SUPPORT OF CIC'S AND CENTURY'S MOTION TO DISMISS OR STAY

COPY

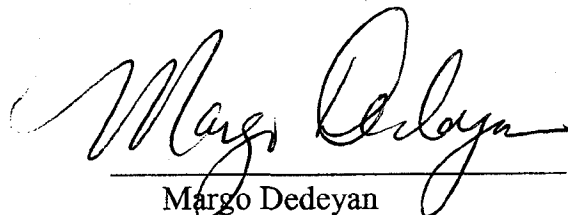
1           5.       On February 28, 2008, CIC and Century initiated an action against  
2 Freeport-McMoRan, as the claimed successor to Phelps Dodge Corporation, as the  
3 claimed successor to Cyprus Amax Minerals Company, as the claimed successor to  
4 Amax, Inc., as successor to American Metal Climax, Inc., in the United States District  
5 Court for the Southern District of New York (the "New York Action").  
6

7           6.       In the New York Action, CIC and Century seek a declaratory judgment  
8 that the liability insurance policies CIC and Century issued to Amax, Inc. and/or  
9 American Metal Climax, Inc. provide no insurance coverage for the costs Freeport-  
10 McMoRan claims it has incurred and continues to incur in its effort to assimilate the  
11 corporate records of Amax, Inc. into Freeport-McMoRan's own corporate records.  
12

13           7.       Century has amended its complaint in the New York Action to assert an  
14 unjust enrichment claim to recover approximately \$117,000 purportedly paid in  
15 connection with the document review project described above.  
16

17           8.       In addition, Century has amended its complaint in the New York Action to  
18 recover approximately \$667,000 in past amounts improperly allocated to its policy  
19 periods.  
20

21           I certify under penalty of perjury under the laws of the State of California that the  
22 foregoing is true and correct.  
23

24   
25 Margo Dedeyan

26 Dated: June 17, 2008  
27  
28



1 Alison V. Lippa, No. 160807  
2 Alan P. Jacobus, No. 206954  
3 Vance A. Woodward, No. 231730  
4 **CARROLL, BURDICK & McDONOUGH LLP**  
5 Attorneys at Law  
6 44 Montgomery Street, Suite 400  
7 San Francisco, CA 94104  
8 Telephone: 415.989.5900  
9 Facsimile: 415.989.0932  
10 Email: alippa@cbmlaw.com  
11 ajacobus@cbmlaw.com  
12 vwoodward@cbmlaw.com  
13 Attorneys for Defendant The Continental Insurance Company

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John A. Clarke, Executive Officer/Clerk  
By A.E. Lafleur-Clayton Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF LOS ANGELES

11 CYPRUS AMAX MINERALS  
12 COMPANY, ET AL.,

13 Plaintiffs,

14 versus

15 CONTINENTAL CASUALTY  
16 COMPANY, ET AL.,

17 Defendants.

No. BC 391068

**DECLARATION OF ROBERT GALARDI IN  
SUPPORT OF THE CONTINENTAL  
INSURANCE COMPANY'S MOTION TO  
DISMISS OR STAY THE ACTION BASED ON  
FORUM NON CONVENIENS**

18 I, Robert Galardi, declare:

19 1. I make this declaration based on personal knowledge pursuant to Section  
20 2015.5 of the California Code of Civil Procedure, and Rule 3.1342(a) of the California  
21 Rules of Court.

22 2. I am a Claim Specialist for the Environmental and Mass Tort Claims  
23 Department of The Continental Insurance Company ("Continental").

24 3. Attached as Exhibit A is a true and correct copy of the declarations page of  
25 insurance policy L-3320862. The declarations page indicates policy L-3320862 was  
26 issued, effective January 1, 1975 to January 1, 1976, by The Continental Insurance  
27 Company to Amax, Inc. The declarations page indicates The Continental Insurance  
28 Company was located in New York, New York, that the broker of the policy, Frenkel &

CBM-IPG\SF408407.1

**DECLARATION OF ROBERT GALARDI IN SUPPORT OF CONTINENTAL'S MOTION TO DISMISS**

COPY

1 Co., was located in New York, New York, and that Amax, Inc. was located in New York,  
2 New York.

3 4. Attached as Exhibit B is a true and correct copy of the declarations page of  
4 insurance policy L-3618826. The declarations page indicates policy L-3618826 was  
5 issued, effective January 1, 1976 to January 1, 1977, by The Continental Insurance  
6 Company to Amax, Inc. The declarations page indicates The Continental Insurance  
7 Company was located in New York, New York, that the broker of the policy, Frenkel &  
8 Co., was located in New York, New York, and that Amax, Inc. was located in New York,  
9 New York.

10 5. Attached as Exhibit C is a true and correct copy of the declarations page of  
11 insurance policy L-1184328. The declarations page indicates policy L-1184328 was  
12 issued, effective January 1, 1977 to January 1, 1978, by The Continental Insurance  
13 Company to Amax, Inc. It appears the effective period of policy L-1184328 was later  
14 extended to January 1, 1980. The declarations page indicates The Continental Insurance  
15 Company was located in New York, New York, that the broker of the policy, Frenkel &  
16 Co., was located in New York, New York, and that Amax, Inc. was located in Greenwich,  
17 Connecticut.

18 6. Attached as Exhibit D is a true and correct copy of a daily report for  
19 insurance policy SRL 3635913. The daily report indicates policy SRL 3635913 was  
20 issued, effective January 1, 1980 to January 1, 1981, by The Continental Insurance  
21 Company to Amax, Inc. The daily report indicates The Continental Insurance Company  
22 was located in New York, New York, that the broker of the policy, Frenkel & Co., was  
23 located in New York, New York, and that Amax, Inc. was located in Greenwich,  
24 Connecticut.

25 7. Attached as Exhibit E is a true and correct copy of the declarations page of  
26 insurance policy SRL 3636099. The declarations page indicates policy SRL 3636099 was  
27 issued, effective January 1, 1981 to January 1, 1982, by The Continental Insurance  
28 Company to Amax, Inc. The declarations page indicates The Continental Insurance

1 Company was located in New York, New York, that the broker of the policy, Frenkel &  
2 Co., was located in New York, New York, and that Amax, Inc. was located in Greenwich,  
3 Connecticut.

4 8. Attached as Exhibit F is a true and correct copy of the declarations page of  
5 insurance policy SRL 3636291. The declarations page indicates policy SRL 3636291 was  
6 issued, effective January 1, 1982 to January 1, 1983, by The Continental Insurance  
7 Company to Amax, Inc. The declarations page indicates The Continental Insurance  
8 Company was located in New York, New York, that the broker of the policy, Frenkel &  
9 Co., was located in New York, New York, and that Amax, Inc. was located in Greenwich,  
10 Connecticut.

11 9. Attached as Exhibit G is a true and correct copy of the declarations page of  
12 insurance policy SRL 3636677. The declarations page indicates policy SRL 3636677 was  
13 issued, effective January 1, 1983 to January 1, 1984, by The Continental Insurance  
14 Company to Amax, Inc. The declarations page indicates The Continental Insurance  
15 Company was located in New York, New York, that the broker of the policy, Frenkel &  
16 Co., was located in New York, New York, and that Amax, Inc. was located in Greenwich,  
17 Connecticut.

18 10. Attached as Exhibit H is a true and correct copy of the declarations page of  
19 insurance policy SRL 3636859. The declarations page indicates policy SRL 3636859 was  
20 issued, effective January 1, 1984 to January 1, 1985, by The Continental Insurance  
21 Company to Amax, Inc. The declarations page indicates The Continental Insurance  
22 Company was located in New York, New York, that the broker of the policy, Frenkel &  
23 Co., was located in New York, New York, and that Amax, Inc. was located in Greenwich,  
24 Connecticut.

25 11. Attached as Exhibit I is a true and correct copy of the declarations page of  
26 insurance policy SRL 3344412. The declarations page indicates policy SRL 3344412 was  
27 issued, effective January 1, 1985 to January 1, 1986, by The Continental Insurance  
28 Company to Amax, Inc. The declarations page indicates The Continental Insurance

1 Company was located in New York, New York, that the broker of the policy, Frenkel &  
2 Co., was located in New York, New York, and that Amax, Inc. was located in Greenwich,  
3 Connecticut.

4 12. Attached as Exhibit J is a true and correct copy of the declarations page of  
5 insurance policy SRL 3347418. The declarations page indicates policy SRL 3347418 was  
6 issued, effective January 1, 1986 to April 1, 1986, by The Continental Insurance Company  
7 to Amax, Inc. The declarations page indicates The Continental Insurance Company was  
8 located in New York, New York, that the broker of the policy, Frenkel & Co., was located  
9 in New York, New York, and that Amax, Inc. was located in Greenwich, Connecticut.

10 I certify under penalty of perjury under the laws of the State of California that the  
11 foregoing is true and correct.

12 6/16/08

13 Date

14 Robert Galardi

15 Robert Galardi

# EXHIBIT A

**DECLARATION OF ROBERT GALARDI IN SUPPORT OF THE CONTINENTAL INSURANCE  
COMPANY'S MOTION TO DISMISS OR STAY THE ACTION BASED ON *FORUM NON CONVENIENS***

***CYPRUS AMAX MINERALS CO., ET AL., V. CONTINENTAL CASUALTY CO., ET AL.***

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

**BC 391068**

Producer  
Frenkel & Co.  
156 William Street  
New York City, N. Y. 10038  
Code No. 81 521 056

Policy No. I 3 32 08 12

**CONFIDENTIAL**

The Continental Insurance Company  
(A Stock Company Organized 1853)  
80 Maiden Lane, New York, New York 10038

(A Stock Company herein called the Company)

Agrees with the Named Insured, in consideration of the payment of the premium and subject to the declarations following, to provide Insurance as hereinafter set forth, subject to all the terms of this policy as follows:

**Blanket Liability Policy**

**Declarations**

**Item I**

Named Insured: Amax Inc., And As Schedule A Attached

**Item II**

Address: 1270 Avenue Of The Americas  
New York, New York

**Item III - Policy Period:**

From: January 1, 1975  
To: January 1, 1976

12:01 A. M. Standard Time, at the Address of the Named Insured as stated herein as to both of said dates.

**Item IV - Limits of Liability**

**Coverage A**

Personal Injury Liability \$1,000,000 Each Occurrence  
\$1,000,000 Aggregate Products

**Coverage B**

Property Damage Liability \$100,000 Each Occurrence  
\$100,000 Aggregate Products

**The CONTINENTAL INSURANCE COMPANIES**

AX 0000905

# EXHIBIT B

**DECLARATION OF ROBERT GALARDI IN SUPPORT OF THE CONTINENTAL INSURANCE  
COMPANY'S MOTION TO DISMISS OR STAY THE ACTION BASED ON *FORUM NON CONVENIENS***

***CYPRUS AMAX MINERALS Co., ET AL., v. CONTINENTAL CASUALTY Co., ET AL.***

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

**BC 391068**

Producer  
Frenkel & Company, Inc.  
156 William Street  
New York, N. Y. 10038  
Code No. 81 980 021

Policy No. L-3 61 88 26

**CONFIDENTIAL**

THE CONTINENTAL INSURANCE COMPANY  
(A Stock Company Organized 1853)  
80 Maiden Lane, New York, New York 10038

(A Stock Company Herein Called The Company)

Agrees with the Named Insured, in consideration of the payment of the premium and subject to the declarations following, to provide Insurance as hereinafter set forth, subject to all the terms of this policy as follows:

**BLANKET LIABILITY POLICY**

**DECLARATIONS**

Item I  
Named Insured: AMAX, Inc., And As per Schedule "A" Attached

Item II  
Address: 1270 Avenue Of The Americas  
New York, New York

Item III  
Policy Period: From: January 1, 1976  
To: January 1, 1977  
12:01 A. M. Standard Time, at the  
Address of the Named Insured as  
Stated herein as to both of said  
Dates.

**Item IV - Limits of Liability**

**Coverage A**

Personal Injury Liability \$1,000,000 Each Occurrence  
\$1,000,000 Aggregate

**Coverage B**

Property Damage Liability \$250,000 Each Occurrence  
\$250,000 Aggregate Products  
\$500,000 Aggregate All Other  
Property Damage  
Coverage

Guaranty Fund \$36.00

**The CONTINENTAL INSURANCE COMPANIES**

**00000000**



# EXHIBIT C

**DECLARATION OF ROBERT GALARDI IN SUPPORT OF THE CONTINENTAL INSURANCE  
COMPANY'S MOTION TO DISMISS OR STAY THE ACTION BASED ON *FORUM NON CONVENIENS***

***CYPRUS AMAX MINERALS Co., ET AL., v. CONTINENTAL CASUALTY Co., ET AL.***

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

**BC 391068**

Producer  
Frenkel & Company, Inc.  
156 William Street  
New York, N.Y. 10038  
Code No. 81 980 021

Policy No. L1 18 43 28

THE CONTINENTAL INSURANCE COMPANY  
(A Stock Company Organized 1853)  
80 Maiden Lane, New York, New York 10038

(A Stock Company Herein Called The Company)

Agrees with the Named Insured, in consideration of the payment of the premium and subject to the declarations following, to provide Insurance as hereinafter set forth, subject to all the terms of this policy as follows:

BLANKET LIABILITY POLICY

DECLARATIONS

Item I

Named Insured: AMAX, Inc., And As per Schedule "A" Attached

Item II

Address: AMAX CENTER  
GREENWICH, CONNECTICUT, 06830

Item III

Policy Period: From: January 1, 1977  
To: January 1, 1978  
12:01 A.M. Standard Time, at the  
Address of the Named Insured as  
Stated herein as to both of said  
Dates.

Item IV - Limits of Liability

Coverage A

Personal Injury Liability \$1,000,000 Each Occurrence  
\$1,000,000 Aggregate

Coverage B

Property Damage Liability \$250,000 Each Occurrence  
\$250,000 Aggregate Products  
\$1,000,000 Aggregate All  
Other  
Property Damage  
Coverage

Guaranty Fund \$408.00

The CONTINENTAL INSURANCE COMPANIES

# EXHIBIT D

**DECLARATION OF ROBERT GALARDI IN SUPPORT OF THE CONTINENTAL INSURANCE  
COMPANY'S MOTION TO DISMISS OR STAY THE ACTION BASED ON *FORUM NON CONVENIENS***

***CYPRUS AMAX MINERALS CO., ET AL., v. CONTINENTAL CASUALTY CO., ET AL.***

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

**BC 391068**

Countersigned by.

# EXHIBIT E

**DECLARATION OF ROBERT GALARDI IN SUPPORT OF THE CONTINENTAL INSURANCE  
COMPANY'S MOTION TO DISMISS OR STAY THE ACTION BASED ON *FORUM NON CONVENIENS***

***CYPRUS AMAX MINERALS CO., ET AL., v. CONTINENTAL CASUALTY CO., ET AL.***

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

**BC 391068**

Policy Issued By: The Continental Insurance Company  
80 Maiden Lane  
New York, NY 10038

11

Policy No. SRL  
3 63 60 99

Producer's Name: Frenkel & Co., Inc.  
123 William Street  
New York, NY 10038

99 913 659

Renewal of: SRL 3635913

Item 1. Named Insured and Address (Number and Street, Town or City, County and State):  
Amax Inc. & As Per Schedule A Attached  
Amax Center  
Greenwich Conn. 06830

The named insured is:  
Individual ☐ Partnership ☐ Corporation ☒  
Joint Venture ☐  
Other (specify)

Business of the named insured is:  
Mining, Smelting & Refining

Item 2. Policy Period: From 12:01A M., 1/1/81 to 1/1/82  
12:01 A.M., standard time at the address of the named insured as stated herein.

Audit Period: Annual, unless otherwise stated.

Audit Required  
☒ Yes ☐ No

**LIABILITY INSURANCE POLICY - SECTION TWO - DECLARATIONS**  
(For Automobile Insurance or General Liability Insurance separately or combined)

Item 3. The insurance afforded is only with respect to such of the following Coverage Parts as are indicated by specific premium charge or charges.

Coverage Parts	Advance Premiums
Basic Automobile Liability Insurance	\$
Comprehensive Automobile Liability Insurance	\$
Automobile Medical Payments Insurance	\$
Garage Insurance	\$
Uninsured Motorists Insurance	\$
Automobile Physical Damage Insurance	\$
Automobile Physical Damage Insurance (Dealers)	\$
	\$
	\$
	\$
Comprehensive General Liability Insurance	\$ 1,254,000
Owners', Landlords' and Tenants' Liability Insurance	\$
Manufacturers' and Contractors' Liability Insurance	\$
Comprehensive Personal Insurance	\$
Farmer's Comprehensive Personal Insurance	\$
Contractual Liability Insurance	\$
Medical Payments Insurance	\$
Directors' and Officers' Protective Liability Insurance	\$
Personal Injury Liability Insurance	\$
	\$
	\$
	\$
	\$
Deposit Premium	\$ 663,240
Total Advance Premium for this policy	\$ see end of #1
Form numbers of endorsements forming a part of the policy on its effective date:	

Premium is payable: On effective date of policy \$ ; 1st Anniversary \$ ; 2nd Anniversary \$

This declarations page shall not be binding on the company unless countersigned by a duly authorized representative of the company, and attached, in full, to Section One of the company's Liability Insurance Policy, and completed by one or more Coverage Parts for which there is an advance premium indicated on this page.

Countersigned by

*G. Paragon*

# EXHIBIT F

**DECLARATION OF ROBERT GALARDI IN SUPPORT OF THE CONTINENTAL INSURANCE  
COMPANY'S MOTION TO DISMISS OR STAY THE ACTION BASED ON *FORUM NON CONVENIENS***

***CYPRUS AMAX MINERALS Co., ET AL., v. CONTINENTAL CASUALTY Co., ET AL.***

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

**BC 391068**





# EXHIBIT G

**DECLARATION OF ROBERT GALARDI IN SUPPORT OF THE CONTINENTAL INSURANCE  
COMPANY'S MOTION TO DISMISS OR STAY THE ACTION BASED ON *FORUM NON CONVENIENS***

***CYPRUS AMAX MINERALS Co., ET AL., v. CONTINENTAL CASUALTY Co., ET AL.***

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

**BC 391068**

11

3 63 56 77

99913659

Renewal of

SRL 3636291

The named insured is:  
 Individual ☐ Partnership ☐ Corporation ☐  
 Joint Venture ☐  
 Other (specify) **MINING, SMELTING, REFINING**  
 Business of the named insured is:

**CONFIDENTIAL**

**Audit Required**  
☒ Yes.      ☐ No

Item 3. The insurance afforded is only with respect to such of the following Coverage Parts as are indicated by specific premium charge or charges.

Coverage Parts	Advance Premiums
Basic Automobile Liability Insurance	\$
Comprehensive Automobile Liability Insurance	\$
Automobile Medical Payments Insurance	\$
Garage Insurance	\$
Uninsured Motorists Insurance	\$
Automobile Physical Damage Insurance	\$
Automobile Physical Damage Insurance Dealers	\$
	\$
	\$
	\$
Comprehensive General Liability Insurance	\$ 642161
Owners', Landlords' and Tenants' Liability Insurance	\$
Manufacturers' and Contractors' Liability Insurance	\$
Comprehensive Personal Insurance	\$
Farmer's Comprehensive Personal Insurance	\$
Contractual Liability Insurance	\$
Premises Medical Payments Insurance	\$
Owners' and Contractors' Protective Liability Insurance	\$
Personal Injury Liability Insurance	\$
	\$
	\$
	\$
	\$
	\$
<b>Total Advance Premium for this policy</b>	<b>\$ 642161</b>

File numbers of endorsements forming a part of the policy on its effective date:

L 7251, L 8199s, L8199, L6817

Premium is payable: On effective date of policy \$ \_\_\_\_\_ ; 1st Anniversary \$ \_\_\_\_\_ ; 2nd Anniversary \$ \_\_\_\_\_

This declarations page shall not be binding on the company unless countersigned by a duly authorized representative of the company, and attached, when issued, to Section One of the company's Liability Insurance Policy, and completed by one or more Coverage Parts for which there is an advance premium indicated on this page.

**Countersigned by:**

2. Paragon

# EXHIBIT H

**DECLARATION OF ROBERT GALARDI IN SUPPORT OF THE CONTINENTAL INSURANCE  
COMPANY'S MOTION TO DISMISS OR STAY THE ACTION BASED ON *FORUM NON CONVENIENS***

***CYPRUS AMAX MINERALS CO., ET AL., v. CONTINENTAL CASUALTY CO., ET AL.***

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

**BC 391068**

The Company hereby states that it has issued to the insured named in this certificate a policy of which this certificate is a copy. This certificate is not a policy of insurance. It is a memorandum of the policy referred to herein at the date of issue hereof and is furnished as a matter of information only, with the understanding that the rights and liabilities of the parties will be governed by the original policy as it may be lawfully amended from time to time. This certificate is incomplete unless attached, when furnished to the holder, to Section One of the Company's Liability Insurance Policy.

# EXHIBIT I

**DECLARATION OF ROBERT GALARDI IN SUPPORT OF THE CONTINENTAL INSURANCE  
COMPANY'S MOTION TO DISMISS OR STAY THE ACTION BASED ON *FORUM NON CONVENIENS***

***CYPRUS AMAX MINERALS Co., ET AL., v. CONTINENTAL CASUALTY Co., ET AL.***

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

**BC 391068**

one or more Coverage Parts for which this

*James R Jensen*

# EXHIBIT J

**DECLARATION OF ROBERT GALARDI IN SUPPORT OF THE CONTINENTAL INSURANCE  
COMPANY'S MOTION TO DISMISS OR STAY THE ACTION BASED ON *FORUM NON CONVENIENS***

***CYPRUS AMAX MINERALS Co., ET AL., v. CONTINENTAL CASUALTY Co., ET AL.***

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

**BC 391068**

LAB 6625 DR CSRL C



Alison V. Lipa, No. 160807  
 Alan P. Jacobus, No. 206954  
 Vance A. Woodward, No. 231730  
**CARROLL, BURDICK & McDONOUGH LLP**  
 Attorneys at Law  
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 San Francisco, CA 94104  
 Telephone: 415.989.5900  
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 ajacobus@cbmlaw.com  
 vwoodward@cbmlaw.com

**CONFORMED COPY**  
**OF ORIGINAL FILED**  
 Los Angeles Superior Court

JUN 19 2008

John A. Clarke, Executive Officer/Clerk

By A.E. Lefleur-Clayton, Deputy  
 A.E. LEFLEUR-CLAYTON

Attorneys for Defendant The Continental Insurance Company

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

CYPRUS AMAX MINERALS  
 COMPANY, et al.,

Plaintiffs,

versus

CONTINENTAL CASUALTY  
 COMPANY, et al.,

Defendants.

No. BC 391068

**DECLARATION OF VANCE WOODWARD IN  
 SUPPORT OF THE CONTINENTAL  
 INSURANCE COMPANY'S AND CENTURY  
 INDEMNITY COMPANY'S JOINT MOTION  
 TO DISMISS OR STAY THE ACTION BASED  
 ON *FORUM NON CONVENIENS***

I, Vance Woodward, declare:

1. I am an associate at the Carroll, Burdick & McDonough, LLP law firm in San Francisco, California.
2. I am a member in good standing of the bar of California and New York.
3. I represent The Continental Insurance Company in this action.
4. I make this declaration in support of The Continental Insurance Company's and Century Indemnity Company's Joint Motion to Dismiss or Stay the Action Based on *Forum Non Conveniens*.
5. Attached as **Exhibit 1** to this affidavit is a true and correct copy of the Complaint for Breach of Contract and Declaratory Relief, *Cyprus Amax Minerals Co v. Cont'l Cas. Co.*, No. BC391068 (Cal. Super. Ct., Los Angeles County May 16, 2008).

CBM-IPGSF408422.1

DECLARATION OF VANCE WOODWARD IN SUPPORT OF CIC'S AND CENTURY'S JOINT MOTION TO DISMISS OR STAY

**COPY**

6 Attached as **Exhibit 2** to this affidavit is a true and correct copy of the  
Affidavit of Gregory D. Winfree.

7. Attached as **Exhibit 3** to this affidavit is a true and correct copy of the  
Email from Plumer to Jacobus (Apr. 4, 2008).

8. Attached as **Exhibit 4** to this affidavit is a true and correct copy of the  
Complaint, *Century Indem. Co. v. Freeport-McMoRan Copper & Gold Inc.*, 08 CV 0212  
(PKL) (S.D.N.Y. Feb. 28, 2008).

9. Attached as **Exhibit 5** to this affidavit is a true and correct copy of the  
Letter from Peters to Dedeyan (Dec. 21, 2007).

10. Attached as **Exhibit 6** to this affidavit is a true and correct copy of the  
Letter from Bitter to Plumer (May 13, 2008).

11. Attached as **Exhibit 7** to this affidavit is a true and correct copy of the  
First Amended Complaint, *Century Indem. Co. v. Freeport-McMoRan Copper & Gold  
Inc.*, 08 CV 0212 (PKL) (S.D.N.Y. May 9, 2008).

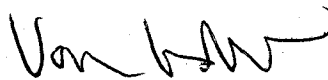
12. Attached as **Exhibit 8** to this affidavit is a true and correct copy of the  
Letter from Galardi to Peters (Feb. 28, 2008).

13. Attached as **Exhibit 9** to this affidavit is a true and correct copy of  
excerpts from Freeport-McMoRan Copper & Gold Inc.'s Form 10-K (Dec. 31, 2007), as  
available at <http://www.fcx.com/news/2008/FCX%202007%2010K.pdf>.

I certify under penalty of perjury under the laws of the State of California that the  
foregoing is true and correct.

June 19, 2008

Date



Vance Woodward

# EXHIBIT 1

**DECLARATION OF VANCE WOODWARD IN SUPPORT OF THE CONTINENTAL INSURANCE  
COMPANY'S AND CENTURY INDEMNITY COMPANY'S JOINT MOTION TO DISMISS OR STAY THE  
ACTION BASED ON *FORUM NON CONVENIENS***

***CYPRUS AMAX MINERALS Co., ET AL., v. CONTINENTAL CASUALTY Co., ET AL.***

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

**CASE No. BC 391068**

**COPY**  
**CONFORMED COPY**  
 OF ORIGINAL FILED  
 Los Angeles Superior Court

MAY 16 2008

John A. Clarke, Executive Officer/Clerk  
 By D.M. Swain, Deputy  
 D.M. SWAIN

1 LAWRENCE A. HOBEL (Bar No. 73364)  
 Lawrence.Hobel@hellerehrman.com  
 2 HELLER EHRMAN LLP  
 333 Bush Street  
 3 San Francisco, California 94104-2878  
 Telephone: (415) 772-6000  
 4 Facsimile: (415) 772-6268  
 5 Attorney for Plaintiffs  
 6 CYPRUS AMAX MINERALS COMPANY,  
 7 PHELPS DODGE CORPORATION, and AMAX  
 8 METALS RECOVERY INC.

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 9 FOR THE COUNTY OF LOS ANGELES

10 CYPRUS AMAX MINERALS  
 11 COMPANY, a Delaware corporation,  
 12 PHELPS DODGE CORPORATION, a  
 13 New York corporation, and AMAX  
 14 METALS RECOVERY INC., a  
 15 Delaware Corporation,

16 Plaintiffs,

17 v.

18 CONTINENTAL CASUALTY  
 19 COMPANY, an Illinois Corporation,  
 20 THE AMERICAN INSURANCE  
 21 COMPANY, a Nebraska Corporation,  
 22 OLD REPUBLIC INSURANCE  
 23 COMPANY, a Pennsylvania  
 24 Corporation, TRUCK INSURANCE  
 25 EXCHANGE, a California corporation,  
 26 THE CONTINENTAL INSURANCE  
 27 COMPANY, a Pennsylvania  
 28 Corporation, and CENTURY  
 INDEMNITY COMPANY, AS  
 SUCCESSOR TO INSURANCE  
 COMPANY OF NORTH AMERICA, a  
 Pennsylvania corporation,

29 Defendants.

Case No.:

BC391068 **BY FAX**

**COMPLAINT FOR BREACH OF  
 CONTRACT AND DECLARATORY  
 RELIEF**

**DEMAND FOR TRIAL BY JURY**

Plaintiffs Cyprus Amax Minerals Company ("Cyprus Amax"), Phelps Dodge  
 Corporation ("Phelps Dodge"), and Amax Metals Recovery Inc. ("AMRI") (collectively,  
 "Plaintiffs" or "Cyprus Amax") complain of defendants Continental Casualty Company  
 ("Continental Casualty"), The American Insurance Company ("American"), Old Republic

COMPLAINT FOR DECLARATORY JUDGMENT AND BREACH OF CONTRACT; DEMAND FOR TRIAL BY  
 JURY

Heller  
 Ehrman LLP

1 Insurance Company ("Old Republic"), Truck Insurance Exchange ("Truck"), The  
2 Continental Insurance Company ("Continental Insurance"), Century Indemnity Company  
3 ("Century") (collectively, "Defendants") and allege as follows:

4 **NATURE OF THE ACTION**

5 1. This civil action arises out of Defendants' refusal and failure to reimburse  
6 Plaintiffs for certain defense costs and/or indemnity costs incurred in lawsuits alleging  
7 bodily injury and resultant damages caused by exposure to talc, asbestos, and other  
8 materials allegedly used on the premises, manufactured, sold, handled, trademarked,  
9 installed, licensed or distributed by Cyprus Amax and certain of its predecessors  
10 (collectively, the "Underlying Actions").

11 2. Defendants are insurers that sold primary insurance policies (the "Policies") to  
12 Plaintiffs, all of which include a duty to defend and to indemnify. Defendants previously  
13 have provided coverage to Plaintiffs for the costs of defense and indemnity for the  
14 Underlying Actions and each of the Defendants currently are defending the Underlying  
15 Actions and, as appropriate, providing indemnity.

16 3. This action seeks damages arising from all Defendants for breach of either  
17 their contractual duties under their Policies or a 2007 Confidential Settlement and Defense  
18 Cost Sharing Agreement between Cyprus Amax and certain Defendants (the "2007  
19 Agreement") for certain disputed defense costs.

20 4. This action also seeks a declaration, pursuant to California Code of Civil  
21 Procedure Section 1060, of the contractual rights, duties and responsibilities of certain of  
22 the Defendants under their Policies as to the scope of their coverage for defense and  
23 indemnity incurred in relation to certain of the Underlying Actions that these Defendants  
24 recently have wrongfully asserted they have no obligation to pay in full.

25 **THE PARTIES**

26 5. Plaintiff Cyprus Amax Minerals Company is a corporation organized and  
27 existing under the laws of the State of Delaware with its principal place of business in  
28

Heller  
Ehrman LLP

1 Phoenix, Arizona. Prior to the 1993 merger that created Cyprus Amax Minerals Company,  
2 there were two separate companies: (a) AMAX Inc. and (b) Cyprus Minerals Company. In  
3 1999, Cyprus Amax merged with a subsidiary of Phelps Dodge, but kept the name Cyprus  
4 Amax Minerals Company.

5 6. Plaintiff Amax Metals Recovery Inc. is a corporation organized and existing  
6 under the laws of Delaware with its principal place of business in Braithwaite, Louisiana.  
7 AMRI is a subsidiary of Cyprus Amax.

8 7. Plaintiff Phelps Dodge Corporation is a corporation organized and existing  
9 under the laws of the State of New York with its principal place of business in Phoenix,  
10 Arizona. Phelps Dodge is the direct parent of Cyprus Amax and the indirect parent of  
11 AMRI.

12 8. Cyprus Amax is informed and believes, and thereon alleges, that defendant  
13 Continental Casualty is a corporation organized and existing under the laws of the State of  
14 Illinois with its principal place of business in Chicago, Illinois. Continental Casualty has  
15 consented to the jurisdiction and venue of this Court.

16 9. Cyprus Amax is informed and believes, and thereon alleges, that defendant  
17 American is a corporation organized and existing under the laws of the State of Nebraska  
18 with its principal place of business in Novato, California. American is authorized to do  
19 business, and does business, in the State of California. American has consented to the  
20 jurisdiction and venue of this Court.

21 10. Cyprus Amax is informed and believes, and thereon alleges, that defendant  
22 Old Republic is a corporation organized and existing under the laws of the State of  
23 Pennsylvania with its principal place of business in Greensburg, Pennsylvania. Old  
24 Republic is authorized to do business, and does business, in the State of California. Old  
25 Republic has consented to the jurisdiction and venue of this Court.

26 11. Cyprus Amax is informed and believes, and thereon alleges, that defendant  
27 Truck is a corporation organized and existing under the laws of the State of California with  
28

Heller  
Ehrman LLP

1 its principal place of business in Los Angeles, California. Truck is authorized to do  
2 business, and does business, in the State of California. Truck has consented to the  
3 jurisdiction and venue of this Court.

4 12. Cyprus Amax is informed and believes, and thereon alleges, that defendant  
5 Continental Insurance is a corporation organized and existing under the laws of the State of  
6 Pennsylvania with its principal place of business in Chicago, Illinois. Continental Insurance  
7 is authorized to do business, and does business, in the State of California.

8 13. Cyprus Amax is informed and believes, and thereon alleges, that defendant  
9 Century is a corporation organized and existing under the laws of the State of Pennsylvania  
10 with its principal place of business in Philadelphia, Pennsylvania. Century is authorized to  
11 do business, and does business, in the State of California. Century is the successor to CCI  
12 Insurance Company, as successor to Insurance Company of North America (collectively,  
13 "Century").

#### 14 VENUE

15 14. Venue is proper in this Court pursuant to the California Code of Civil Practice  
16 § 395 because at least one of the Defendants resides in Los Angeles County. In addition,  
17 Defendants Continental Casualty, American, Truck and Old Republic have consented to  
18 venue in this Court.

#### 19 THE INSURANCE POLICIES

20 15. Each of the Defendants issued liability insurance policies, as alleged below.

21 16. The Policies obligate each of the Defendants to defend and indemnify  
22 Plaintiffs in certain of the Underlying Actions.

23 17. The Policies are valid and binding contracts of insurance.

24 18. Plaintiffs have complied with all the terms and conditions precedent of the  
25 Policies, and are entitled to the benefit of insurance provided by them.  
26  
27

1           **The Continental Casualty Policies**

2           19. Continental Casualty sold, inter alia, the following liability insurance policies  
3 (collectively, the "Continental Casualty Policies") to Cyprus Minerals Company, as well as  
4 its predecessors and subsidiaries including Sierra Talc Company, United Sierra Corporation  
5 and Cyprus Industrial Minerals Company (collectively, "Cyprus"):

- 6           a. Policy No. CL 4234386, effective October 15, 1964 to January 1,  
7 1965;  
8           b. Policy No. CCP 240 505-10-90 R, effective November 1, 1969 to  
9 January 1, 1972  
10           c. Policy No. CCP 967-72-15 R, effective November 1, 1972 to  
11 November 1, 1974.

12           20. Cyprus Amax is the corporate successor to Cyprus and is entitled to coverage  
13 under the Continental Casualty Policies.

14           **The American Insurance Policies**

15           21. American sold the following liability insurance policies to Cyprus  
16 (collectively, the "American Policies"):

- 17           a. Policy No. K2238871, effective May 23, 1961 to May 23, 1962;  
18           b. Policy No. K2257131, effective May 23, 1962 to May 23, 1963;  
19           c. Policy No. K2276210, effective May 23, 1963 to May 23, 1964;  
20           d. Policy No. K2290639, effective May 23, 1964 to October 15, 1964.

21           22. Cyprus Amax is the corporate successor to Cyprus and is entitled to coverage  
22 under the American Policies.

23           **The Old Republic Insurance Policies**

24           23. Old Republic sold the following liability insurance policies to Cyprus  
25 (collectively, the "Old Republic Policies"):

- 26           a. Policy No. ZC-46316, effective July 1, 1985 to July 1, 1986;  
27           b. Policy No. ZC-46784, effective July 1, 1986 to July 1, 1987;  
28           c. Policy No. ZC-50105, effective July 1, 1988 to July 1, 1988.

29           24. Cyprus Amax is the corporate successors to Cyprus and entitled to coverage  
30 under the Old Republic Policies.



**The Truck Insurance Policies**

25. Truck sold the following liability insurance policies to Cyprus (collectively, the "Truck Policies"):

- a. Policy No. 350-41-34, effective October 1, 1974 to July 1, 1980.

26. Cyprus Amax is the corporate successor to Cyprus and entitled to coverage under the Truck Policies.

**The Continental Insurance Policies**

27. Continental Insurance sold the following liability insurance policies to AMAX, Inc. and AMRI (collectively, the "Continental Insurance Policies"):

- a. Policy No. L 3 32 08 62, effective January 1, 1975 to January 1, 1976;
- b. Policy No. L 3 61 88 26, effective January 1, 1976 to January 1, 1977;
- c. Policy No. L 1 18 43 28, effective January 1, 1977 to January 1, 1980;
- d. Policy No. SRL 3 63 59 13, effective January 1, 1980 to January 1, 1981;
- e. Policy No. SRL 3 63 60 99, effective January 1, 1981 to January 1, 1982;
- f. Policy No. SRL 3 63 62 91, effective January 1, 1982 to January 1, 1983;
- g. Policy No. SRL 3 63 66 77, effective January 1, 1983 to January 1, 1984;
- h. Policy No. SRL 3 63 68 59, effective January 1, 1984 to January 1, 1985;
- i. Policy No. SRL 3 34 44 12, effective January 1, 1985 to January 1, 1986;
- j. Policy No. SRL 3 34 74 18, effective January 1, 1986 to April 1, 1986.

28. Amax Nickel Refining Company, Inc., was a named insured under the Continental Insurance policies sold to AMAX, Inc. AMRI is the corporate successor to Amax Nickel Refining Company, Inc. and is entitled to coverage under the Continental Insurance Policies.

**The Century Indemnity Policies**

29. Century sold the following liability policies to American Metal Climax, Inc. and/or to AMAX Inc. and AMRI (collectively, the "Century Policies"):

- a. Policy No. LB 39736, effective January 1, 1965 to January 1, 1968;
- b. Policy No. ALB 47618, effective January 1, 1968 to January 1, 1971;
- c. Policy No. ALB 47212, effective January 1, 1971 to January 1, 1972;
- d. Policy No. ALB 47240, effective January 1, 1972 to January 1, 1974;
- e. Policy No. ALB 47276, effective January 1, 1974 to January 1, 1975;
- f. Policy No. ALB 47279, effective January 30, 1974 to January 1, 1975.

30. Amax Nickel Refining Company, Inc., was insured under the Century policies as a subsidiary of American Metal Climax, Inc and/or AMAX, Inc. AMRI is the corporate successor to Amax Nickel Refining Company, Inc. and is entitled to coverage under the Century Policies.

#### THE 2007 AGREEMENT

31. Cyprus Amax, as successor to Cyprus, entered into the 2007 Agreement with Defendants Continental Casualty, American, Old Republic and Truck to settle a dispute over coverage for certain talc-related and other claims, including settlement of a lawsuit over coverage for such claims pending in the Los Angeles Superior Court.

32. The 2007 Agreement sets out the settling parties' respective duties and responsibilities toward one another, including the payment of defense costs, related to the claims covered by the Agreement, which claims include certain of the Underlying Actions described below.

33. The 2007 Agreement provides that any breach shall be enforced in an action in the Los Angeles Superior Court and shall be controlled and interpreted according to the laws of the State of California.

34. The 2007 Agreement is a valid and binding contract.

35. Cyprus Amax has complied with all the terms and conditions precedent of the 2007 Agreement and is entitled to the benefits provided by it.

#### THE UNDERLYING ACTIONS

36. The Underlying Actions seek damages from AMRI directly or Cyprus Amax (i) as successor to AMAX, Inc. ("AMAX"); and (ii) as successor to Cyprus Minerals

1 Company ("Cyprus") or its subsidiaries or predecessors. AMAX and Cyprus each  
 2 separately purchased insurance prior to their merger in 1993. Certain of the Underlying  
 3 Actions at issue exclusively arise out of claims for bodily injury asserted against AMAX  
 4 and/or AMRI related to AMRI's operations of a nickel refinery in Braithwaite, Louisiana  
 5 (the "AMAX Actions"). Certain of the Underlying Actions at issue arise out of claims for  
 6 bodily injury asserted against Cyprus and/or its subsidiaries or predecessors, including  
 7 Sierra Talc (the "Cyprus Actions").

8 **A. The Defense Costs Dispute (All Defendants)**

9 37. Pursuant to either the Policies and/or the 2007 Agreement, the Underlying  
 10 Actions obligate the Defendants to pay defense costs incurred by Cyprus Amax.

11 38. Defendants previously have acknowledged a duty and obligation under the  
 12 Policies and/or the 2007 Agreement to defend Cyprus Amax in the Underlying Actions.

13 39. Continental Casualty, American, Old Republic, and Truck have defended the  
 14 Cyprus Actions pending, inter alia, in California and Ohio against Plaintiff Cyprus Amax as  
 15 successor to Cyprus.

16 40. Century and Continental Insurance have defended the AMAX Actions  
 17 pending exclusively in Louisiana against Plaintiff AMRI and/or Cyprus Amax as successor  
 18 to AMAX, Inc.

19 41. Beginning in February 2007, Cyprus Amax commenced the review of  
 20 commingled AMAX and Cyprus documents potentially responsive to outstanding discovery  
 21 requests in both the Cyprus Actions and the AMAX Actions (the "Document Review").

22 42. The Document Review was undertaken by Cyprus Amax as part of its defense  
 23 of the Cyprus Actions and the AMAX Actions, specifically those actions where pending  
 24 discovery requests potentially required production of certain historic records.

25 43. On behalf of Cyprus Amax, Enviro-Tox Loss Services, Inc. ("ETLS")  
 26 provided notice and information regarding the Document Review to Defendants and to  
 27

1 National Coordinating Counsel for the Cyprus Actions and the AMAX Actions before or  
2 shortly after the Document Review commenced.

3 44. Upon receipt of invoices for the Document Review, all of the Defendants  
4 except Truck initially made payments of defense costs incurred by Cyprus Amax related to  
5 the Document Review.

6 45. The total costs of the Document Review is \$6.8 million.

7 46. According to the terms of the Policies and the 2007 Agreement, Defendants  
8 have a duty and obligation to reimburse Cyprus Amax for the costs of the Document  
9 Review as defense costs.

10 47. Each of the Defendants currently dispute their obligation to pay for the costs  
11 of the Document Review.

12 **B. The Allocation Dispute (AMAX Defendants Only)**

13 48. Pursuant to the Policies issued by Continental Insurance and Century (the  
14 "AMAX Defendants") to AMAX and AMRI, the AMAX Defendants are obligated to  
15 defend and to pay indemnity incurred by AMAX and AMRI in the AMAX Actions.

16 49. The AMAX Defendants previously have acknowledged a duty and obligation  
17 to pay defense and indemnity under the Policies for the AMAX Actions.

18 50. Beginning in May 2008, the AMAX Defendants have taken the position that  
19 the amounts they have paid and may be forced to pay in the future as defense and/or  
20 indemnity in the AMAX Actions are not wholly attributable to bodily injury occurring  
21 during the period of coverage provided by the Century and Continental Insurance Policies.

22 51. A present controversy exists with respect to the rights of AMAX and AMRI  
23 against the AMAX Defendants as to the parties rights, duties and obligations under the  
24 Policies related to the scope of defense and indemnity for the claims stated in the AMAX  
25 Actions.  
26

**FIRST CAUSE OF ACTION**

**(Breach of Contract Against All Defendants)**

52. Cyprus Amax repeats and incorporates by reference the allegations of Paragraphs 1 to 51 as though fully set forth herein.

53. Defendants sold written insurance contracts to Cyprus Amax.

54. Certain Defendants entered into the 2007 Agreement with Cyprus Amax.

55. Each of the Defendants have breached their contracts of insurance and/or the 2007 Agreement by refusing and failing to pay fully the defense costs associated with the Document Review.

56. As a direct result of the breach, Cyprus Amax has been deprived of the benefits of the insurance coverage and the 2007 Agreement. Cyprus Amax has been forced to pay substantial sums as defense costs arising from the Underlying Actions and Cyprus Amax has incurred damages as a result. Cyprus Amax is entitled to recover those damages plus interest.

**SECOND CAUSE OF ACTION**

**(Declaratory Judgment Against AMAX Defendants)**

57. Cyprus Amax repeats and incorporates by reference the allegations of Paragraphs 1 to 55 as though fully set forth herein.

58. The AMAX Defendants have a duty under the terms of their respective insurance policies to defend and to pay indemnity incurred in connection with the AMAX Actions.

59. Century and Continental Insurance dispute their obligations to pay in full defense and indemnity owed by Cyprus Amax and AMRI as a result of the AMAX Actions.

60. Cyprus Amax seeks a declaration of rights concerning the scope of coverage owed by Century and Continental Insurance in respect to the Policies issued to AMAX and AMRI related to the AMAX Actions.

61. By reason of the foregoing, an actual and justiciable controversy exists

1 between Cyprus Amax and the AMAX Defendants concerning the contractual rights, duties  
 2 and obligations of the parties relating to the scope of coverage for defense and indemnity  
 3 for the AMAX Actions.

4 62. A judicial declaration is necessary and appropriate, under California Code of  
 5 Civil Procedure section 1060, so that Cyprus Amax may ascertain its rights in light of its  
 6 existing and imminent obligations to pay sums for defense and indemnity in the AMAX  
 7 Actions. The issuance of declaratory relief by this Court will terminate some or all of the  
 8 existing controversy between the parties.

9 WHEREFORE, Cyprus Amax prays for relief as set forth below.

10 **PRAYER FOR RELIEF**

11 Plaintiffs requests that the Court enter judgment as follows:

12 1. With respect to the First Cause of Action, judgment against Defendants and  
 13 an award of damages according to proof at trial, plus interest thereon at the maximum legal  
 14 rate;

15 2. With respect to the Second Cause of Action, for a declaration that:

16 a. Each of the AMAX Defendants, pursuant to all the terms of its  
 17 respective policies, is jointly and severally liable for all sums that Cyprus Amax becomes  
 18 obligated to pay, through judgment, settlement, or otherwise, with respect to:

19 (i) Each asbestos-related personal injury claim in which any part of the  
 20 claimant's injury is alleged or shown to have occurred during the  
 21 policy period of that policy; and

22 (ii) Each asbestos-related personal injury claim in which no specific  
 23 period of injury has been alleged or established before the termination  
 24 of the claim.

25 Such obligation of each defendant to make full payment on behalf of Cyprus Amax is  
 26 subject only to underlying and upper limits of liability and percentage participation limits, if  
 27 any, expressly and unambiguously stated in its respective Policies.

28 (b) Each of the AMAX Defendants, pursuant to all the terms of its

Heller  
Ehrman LLP

1 respective Policies, is jointly and severally obligated to defend Cyprus Amax unless the  
 2 allegations of the claimant clearly preclude the possibility that any part of the claimant's  
 3 injury could have occurred during any one of that defendant's policy periods. Such  
 4 obligation under each of the Policies to defend in full is subject only to underlying and  
 5 upper limits of liability or percentage participation limits, if any, that expressly and  
 6 unambiguously apply to the duty to defend, or to policy provisions that otherwise expressly  
 7 and unambiguously limit the duty to defend.

8 (c) For purposes of insurance policy coverage, a claimant's asbestos-  
 9 related personal injury is deemed to begin on the date of the claimant's first exposure to  
 10 asbestos and to continue to occur until the date of the claimant's death.

11 3. With respect to all Claims for Relief:

- 12 a. For Plaintiff's attorneys' fees and costs of suit incurred herein; and  
 13 b. For such other, further, and/or different relief as the Court may deem

14 just and proper.

15 DATED: May 16, 2008

16 HELLER EHRMAN LLP

17 By

18 Lawrence A. Hobel

19 Attorneys for Plaintiffs

20 CYPRUS AMAX MINERALS COMPANY,  
 21 PHELPS DODGE CORPORATION, and  
 22 AMAX METALS RECOVERY INC.

### 23 DEMAND FOR JURY TRIAL

24 Plaintiff hereby demands a jury trial for those claims that may be tried by a jury  
 25 under the law.  
 26  
 27  
 28

Heller  
Ehrman LLP

1 DATED: May 16, 2008

HELLER EHRMAN LLP

2 By 

3 Lawrence A. Hobel

4 Attorneys for Plaintiffs

5 CYPRUS AMAX MINERALS COMPANY,

6 PHELPS DODGE CORPORATION, and

7 AMAX METALS RECOVERY INC.

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Heller  
Ehrman LLP



# EXHIBIT 2

**DECLARATION OF VANCE WOODWARD IN SUPPORT OF THE CONTINENTAL INSURANCE  
COMPANY'S AND CENTURY INDEMNITY COMPANY'S JOINT MOTION TO DISMISS OR STAY THE  
ACTION BASED ON *FORUM NON CONVENIENS***

***CYPRUS AMAX MINERALS Co., ET AL., V. CONTINENTAL CASUALTY Co., ET AL.***

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

**CASE No. BC 391068**

MAY 27 2008

RECEIVED

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
CENTURY INDEMNITY COMPANY, AS  
SUCCESSOR TO CCI INSURANCE  
COMPANY, AS SUCCESSOR TO  
INSURANCE COMPANY OF NORTH  
AMERICA and THE CONTINENTAL  
INSURANCE COMPANY,

Plaintiffs,

v.

FREEPORT-MCMORAN COPPER & GOLD  
INC., AS THE CLAIMED SUCCESSOR TO  
PHELPS DODGE CORPORATION, AS THE  
CLAIMED SUCCESSOR TO CYPRUS  
AMAX MINERALS COMPANY, AS THE  
CLAIMED SUCCESSOR TO AMAX, INC.,  
AS SUCCESSOR TO AMERICAN METAL  
CLIMAX, INC.,

Defendant.  
-----X

Index No. 08 Civ. 02012 (PKL)

**AFFIDAVIT OF  
GREGORY D. WINFREE**

State of Arizona       )  
                              ) ss:  
County of Maricopa    )

GREGORY D. WINFREE, being duly sworn, deposes and states as follows:

1. I submit this Affidavit in support of the motion to dismiss by Freeport-McMoRan Copper & Gold Inc. ("Freeport"). Unless stated upon information and belief, I have personal knowledge of the facts stated herein and affirm that such statements of fact are true and correct to the best of my knowledge.

2. I am Chief Litigation Counsel with Freeport-McMoRan Copper & Gold Inc. ("Freeport"). In my capacity as Chief Litigation Counsel, I am responsible for managing all of the active litigation involving Freeport and its subsidiaries, affiliates, and business units. I have held this position since March 2007 at an office located in Phoenix, Arizona. Previously, I was employed by Phelps Dodge Corporation ("Phelps Dodge") as Senior Counsel-Litigation, a position I held from June 2004.

3. Beginning in February 2007, Cyprus Amax Minerals Company ("Cyprus Amax") commenced a review of 18,000 boxes of commingled AMAX Inc. ("AMAX") and Cyprus Minerals Company ("Cyprus") documents.

4. The review of the above-referenced documents was necessary in my judgment to comply with outstanding discovery requests in certain lawsuits seeking damages for bodily injury related to Amax Metals Recovery, Inc.'s ("AMRI") historic operations. These lawsuits were filed in Louisiana against AMRI (the "AMRI Actions").

5. The review of the above-referenced documents also was necessary to comply with certain outstanding discovery requests in certain lawsuits seeking damages for bodily injury related to Cyprus Minerals Company predecessors.

6. The document review took place in Phoenix, Arizona, and the law firm that conducted the review is based in Phoenix, Arizona.

7. Insurance coverage for the Cyprus component of the document review is governed by a confidential settlement agreement (the "2007 Agreement" or "Agreement") entered into by Cyprus Amax and four primary insurers providing coverage for the historic operations of Cyprus. I have reviewed the 2007 Agreement. The existence of the 2007 Agreement is not confidential, although the Agreement generally is confidential. Consistent with the 2007 Agreement, any dispute must be adjudicated in the Superior Court of California, County of Los Angeles, and will be controlled by and interpreted according to the laws of the State of California.

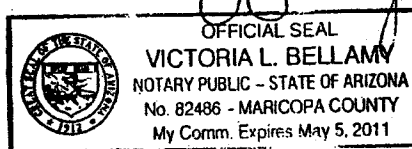
8. HellerEhrman LLP, outside insurance counsel for Cyprus Amax, apprised the parties to the 2007 Agreement in advance -- pursuant to the Agreement's terms -- that Cyprus Amax intended to disclose the general nature of the Agreement and its application to the current dispute and the substance of those specific terms related to choice of forum and choice of law requirements.

9. I participated in the pre-litigation claim discussions with Continental and Century. Freeport and its subsidiaries negotiated in good faith with Continental and Century, including attending face-to-face meetings, providing requested information and allowing them to visit the site of the document review, which was ongoing at the time. I relied upon the impression they conveyed that they were evaluating the claim for purposes of engaging in a serious claims discussion. There was no prior warning that they intended to file a lawsuit and we were completely blindsided by the filing of this lawsuit.

Sworn to before me this 22nd  
day of May, 2008

Victoria L. Bellamy  
Notary Public

Gregory D. Winfree  
Gregory D. Winfree



# EXHIBIT 3

**DECLARATION OF VANCE WOODWARD IN SUPPORT OF THE CONTINENTAL INSURANCE  
COMPANY'S AND CENTURY INDEMNITY COMPANY'S JOINT MOTION TO DISMISS OR STAY THE  
ACTION BASED ON *FORUM NON CONVENIENS***

***CYPRUS AMAX MINERALS Co., ET AL., v. CONTINENTAL CASUALTY Co., ET AL.***

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

**CASE No. BC 391068**

From: Plumer, Mark J. [Mark.Plumer@hellerehrman.com]  
Sent: Friday, April 04, 2008 6:28 AM  
To: Jacobus, Alan; Heskins@whiteandwilliams.com  
Cc: Cirando, Lisa M.  
Subject: Century Indemnity Co., et al. v. Freeport-McMoRan Copper & Gold Inc., No. 08-CV-0212 (PKL) (SDNY)

Attachments: 791570\_1.DOC



791570\_1.DOC (34 KB)

Alan and Shane,

We appreciate Century and Continental's ("plaintiffs") willingness to consider stipulating to the dismissal of Freeport-McMoRan Copper & Gold Inc. without prejudice from the lawsuit in an effort to avoid unnecessary motion practice. This email responds to your request that we explain the reason for the dismissal and that we provide adequate assurances that a complete resolution of this dispute <<791570\_1.DOC>> may be had as against the remaining parties alone.

Plaintiffs' claim is based solely on policies issued Amax Inc. or its predecessors and historic records generated by Amax, Inc. and/or Cyprus Minerals Company or its predecessors. It is undisputed that Amax, Inc. merged into Cyprus Minerals Company and immediately changed its name to Cyprus Amax Minerals Company. It is also undisputed that Cyprus Amax Minerals Company thereafter merged with a subsidiary of Phelps Dodge, but kept the name Cyprus Amax Minerals Company. Thus, Cyprus Amax Minerals Company, a currently existing corporation, is the corporate successor to the Amax, Inc and predecessor coverage and is therefore entitled to any coverage available under the Amax policies. Moreover, any documents implicated by plaintiffs' claims arise out of the operations of Cyprus Amax Minerals Company or its corporate predecessors. No other members of the Freeport McMoRan corporate family are necessary for plaintiffs to obtain complete relief regarding the declaratory judgment sought in this action regarding the Amax policies. This said, we do not propose to dismiss Phelps Dodge Corporation, whom we have determined played an active role in the facts and circumstances underlying plaintiffs' Complaint as Cyprus Amax Minerals Company's immediate parent. Freeport McMoRan Copper & Gold Inc., as the ultimate parent of Cyprus Amax Minerals Company and Phelps Dodge Corporation is too far removed from the facts, is unnecessary and therefore should be dismissed from the case.

In return for the plaintiffs' agreement to dismiss Freeport-McMoRan Copper & Gold Inc. without prejudice, Freeport-McMoRan Copper & Gold Inc will agree to provide any discovery relevant to the litigation. A dismissal without prejudice also will not bar Plaintiffs from seeking to re-name Freeport-McMoRan Copper & Gold Inc. should the need arise.

Please confirm by reply email that you will stipulate to the Rule 41(a)(1)(A)(ii) dismissal of Freeport-McMoRan without prejudice and the attached draft stipulation is acceptable. Thank you.

Mark J. Plumer | Attorney | HellerEhrmanLLP | 1717 Rhode Island Avenue, NW | Washington, DC 20036

tel: +1.202.912.2021 | fax: +1.202.912.2202 | email: mark.plumer@hellerehrman.com | web: www.hellerehrman.com

# EXHIBIT 4

**DECLARATION OF VANCE WOODWARD IN SUPPORT OF THE CONTINENTAL INSURANCE  
COMPANY'S AND CENTURY INDEMNITY COMPANY'S JOINT MOTION TO DISMISS OR STAY THE  
ACTION BASED ON *FORUM NON CONVENIENS***

***CYPRUS AMAX MINERALS Co., ET AL., v. CONTINENTAL CASUALTY Co., ET AL.***

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

**CASE No. BC 391068**

JUDGE LEISURE

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

08 CV 02012

CENTURY INDEMNITY COMPANY, AS  
SUCCESSOR TO CCI INSURANCE  
COMPANY, AS SUCCESSOR TO  
INSURANCE COMPANY OF NORTH  
AMERICA and THE CONTINENTAL  
INSURANCE COMPANY

Plaintiffs,

versus

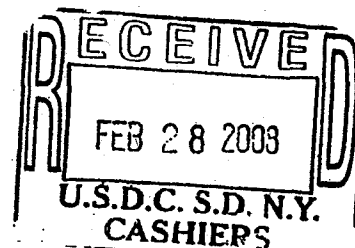
FREEPORT-MCMORAN COPPER &  
GOLD INC., AS THE CLAIMED  
SUCCESSOR TO PHELPS DODGE  
CORPORATION, AS THE CLAIMED  
SUCCESSOR TO CYPRUS AMAX  
MINERALS COMPANY, AS THE  
CLAIMED SUCCESSOR TO AMAX,  
INC., AS SUCCESSOR TO AMERICAN  
METAL CLIMAX, INC.

Defendant.

JURY TRIAL DEMANDED

COMPLAINT

CIVIL ACTION NO. \_\_\_\_\_



COMPLAINT

Plaintiffs Century Indemnity Company (as successor to CCI Insurance Company, as successor to Insurance Company of North America) ("Century") and The Continental Insurance Company ("Continental") invoke the jurisdiction of this court pursuant to 28 U.S.C.A. § 1332 (diversity of citizenship) and plead as their complaint against defendant Freeport-McMoRan Copper and Gold Inc., as the claimed successor to Phelps Dodge Corporation, as the claimed successor to Cyprus Amax Minerals Company, as the claimed successor to Amax, Inc., as successor to American Metal Climax, Inc. ("Freeport McMoRan") as follows:



### INTRODUCTION

1. In this insurance coverage action, Century and Continental seek a declaratory judgment that the liability insurance policies Century and Continental issued to Amax, Inc. and/or American Metal Climax, Inc. (collectively, "Amax") provide no insurance coverage for the costs Freeport-McMoRan claims it has incurred and continues to incur in its effort to assimilate the corporate records of Amax into Freeport-McMoRan's own corporate records (the "Corporate Records Assimilation Project").

### THE PARTIES

2. Plaintiff Century is a corporation that is incorporated in the Commonwealth of Pennsylvania and whose principal place of business is in Philadelphia, Pennsylvania. Century, for purposes of 28 U.S.C.A. § 1332 (c), is a citizen of Pennsylvania.

3. Plaintiff Continental is a corporation that is incorporated in the Commonwealth of Pennsylvania and whose principal place of business is in Chicago, Illinois. Continental, for purposes of 28 U.S.C.A. § 1332 (c), is a citizen of Pennsylvania and Illinois.

4. Defendant Freeport-McMoRan is a corporation that is incorporated in the State of Delaware and whose principal place of business is in New Orleans, Louisiana. Freeport-McMoRan, for purposes of 28 U.S.C.A. § 1332 (c), is a citizen of Delaware and Louisiana.

### AMOUNT IN CONTROVERSY

5. Freeport McMoRan claims it has incurred \$3,900,000 through December 2007 and that it will incur a total of \$7,800,000 by year-end 2008 for the Corporate Records Assimilation Project. The parties dispute whether (a) Freeport McMoRan is entitled to coverage under the policies that Century and Continental issued to Amax, and (b) even if Freeport

McMoRan is entitled to coverage, whether Century and Continental are responsible for these costs.

#### JURISDICTION

6. Jurisdiction is proper in this court under 28 U.S.C.A. § 1332 (diversity of citizenship) because this is a civil action between citizens of different states where the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

#### VENUE

7. Venue is proper in this court under 28 U.S.C.A. § 1391 (a) and 28 U.S.C.A. § 1391 (c) because Freeport-McMoRan is a defendant corporation that resides in this judicial district because it is subject to personal jurisdiction in this district at the date of commencement of this action.

8. Venue is further proper in this court under 28 U.S.C.A. § 1391 (a) and 28 U.S.C.A. § 1391 (c) because a substantial part of the events or omissions giving rise to the claim occurred in this judicial district.

#### STATEMENT OF CENTURY'S AND CONTINENTAL'S CLAIM

9. On January 1, 1958, Climax Molybdenum Company merged with American Metals Company to form American Metal Climax, Inc.

10. On or after January 1, 1975, American Metal Climax, Inc. became Amax, Inc.

11. On or around November 15, 1993, Amax, Inc. merged with Cyprus Minerals Company to form Cyprus Amax Minerals Company.

12. On December 2, 1999, Phelps Dodge Corporation acquired Cyprus Amax Minerals Company.

13. On March 19, 2007, Freeport-McMoRan acquired Phelps Dodge Corporation.

14. Century issued the following liability insurance policies to Amax:

- (a) Policy No. LB 39736 for the January 1, 1965 to January 1, 1968 policy period;
- (b) Policy No. ALB 47168 for the January 1, 1968 to January 1, 1971 policy period;
- (c) Policy No. ALB 47212 for the January 1, 1971 to January 1, 1972 policy period;
- (d) Policy No. ALB 47240 for the January 1, 1972 to January 1, 1974 policy period;
- (e) Policy No. ALB 47276 for the January 1, 1974 to January 1, 1975 policy period; and
- (f) Policy No. ALB 47279 for the January 30, 1974 to January 1, 1975 policy period.

15. Continental issued the following primary, occurrence-based, liability insurance policies to Amax:

- (a) Policy No. L-3 32 08 62 for the January 1, 1975 to January 1, 1976 policy period;
- (b) Policy No. L-3 61 88 26 for the January 1, 1976 to January 1, 1977 policy period;
- (c) Policy No. L 1 18 43 28 for the January 1, 1977 to January 1, 1980 policy period;
- (d) Policy No. SRL-3 63 59 13 for the January 1, 1980 to January 1, 1981 policy period;

- (e) Policy No. SRL 3 63 60 99 for the January 1, 1981 to January 1, 1982 policy period;
- (f) Policy No. SRL 3 63 62 91 for the January 1, 1982 to January 1, 1983 policy period;
- (g) Policy No. SRL 3 63 66 77 for the January 1, 1983 to January 1, 1984 policy period;
- (h) Policy No. SRL 3 63 68 59 for the January 1, 1984 to January 1, 1985 policy period;
- (i) Policy No. SRL 3 34 44 12 for the January 1, 1985 to January 1, 1986 policy period;
- (j) Policy No. SRL 3 34 74 18 for the January 1, 1986 to April 1, 1986 policy period.

16. Beginning in April 2005, Phelps Dodge Corporation began to ship corporate documents from its locations around the country to Phoenix, Arizona to review the documents and to assimilate those records into its general corporate records.

17. Beginning in February 2007, Phelps Dodge Corporation undertook the review and corporate assimilation of the documents it obtained from Cyprus Amax Minerals Company when Phelps Dodge Corporation acquired Cyprus Amax Minerals Company in 1999.

18. Phelps Dodge Corporation neither sought nor obtained the consent of Century or Continental before it began the review and corporate assimilation of the Cyprus Amax Minerals Company records.

19. Since March 2007, Freeport-McMoRan has continued the review and corporate assimilation of the Cyprus Amax Minerals Company records.

20. Freeport-McMoRan neither sought nor obtained the consent of Century or Continental before it continued the review and corporate assimilation of the Cyprus Amax Minerals Company records.

21. Through December 2007, Freeport-McMoRan claims the review and corporate assimilation of the Cyprus Amax Minerals Company records cost \$3,900,000.

22. Through the project's completion, Freeport-McMoRan claims the review and corporate assimilation of the Cyprus Amax Minerals Company records will cost an additional \$3,900,000, for a total of \$7,800,000.

23. Freeport-McMoRan claims the insurance policies Century and Continental issued to Amax cover the cost of the assimilation of the Cyprus Amax Minerals Company corporate records into Freeport-McMoRan's corporate records.

24. Century and Continental deny any obligation for the cost of the Corporate Records Assimilation Project.

25. An actual controversy exists between Century and Continental, on the one hand, and Freeport-McMoRan, on the other hand, over whether the insurance policies cover the cost of the Corporate Records Assimilation Project.

#### COUNT I

26. Century and Continental seek a declaratory judgment under 28 U.S.C.A. § 2201 that the insurance policies issued to Amax do not provide coverage for the cost of the Corporate Records Assimilation Project on the following grounds:

- (a) The costs incurred are not defense costs within the meaning of the policies;

- (b) Century and Continental are not responsible for costs Freeport-McMoRan voluntarily incurs;
- (c) Century and Continental are not responsible for costs Freeport-McMoRan incurred without Century's and Continental's consent;
- (d) Century and Continental are not responsible for unreasonable and/or unnecessary costs;
- (e) Freeport-McMoRan is neither the named insured nor a successor entitled to coverage under the liability insurance policies that Century and Continental issued to Amax; and
- (f) Any other grounds stemming from the policies, the law, or otherwise.

**DEMAND FOR JUDGMENT**

Wherefore, Century and Continental demand judgment, as follows:

1. A declaratory judgment that Century and Continental have no obligation to pay for Freeport-McMoRan's Corporate Records Assimilation Project;
2. Alternatively, should the court determine that Century and Continental have an obligation to pay any portion of the Corporate Records Assimilation Project, a declaratory judgment over the respective rights and obligations of the parties under the Century and Continental policies, and declaratory judgment for the amount of any obligation of Century and/or Continental to pay for the Corporate Records Assimilation Project;
3. Costs;
4. All other relief to which Century and Continental are entitled.

Dated: February 28, 2008.

**WHITE AND WILLIAMS LLP**

By: Rafael Vergara

Rafael Vergara (RV-4098)  
White and Williams LLP  
One Penn Plaza, Suite 1801  
New York, NY 10119  
Phone: 212-244-9500

-and-

Shane R. Heskin (SH-9984)  
White and Williams LLP  
1800 One Liberty Place  
Philadelphia, Pennsylvania 19103  
Telephone: (215) 864-7000

**COLLIAU ELENIUS MURPHY  
CARLUCIO KEENER & MORROW**

By: Marian S. Hertz  
Marian S. Hertz (MSH-9644)

40 Wall Street, 7<sup>th</sup> Floor  
New York, New York 10005  
Telephone: (212) 440-2743

and

Gretchen A. Ramos (pro hac vice pending)  
Alan P. Jacobus (pro hac vice pending)  
CARROLL BURDICK & McDONOUGH  
L.L.P.

44 Montgomery Street  
San Francisco, California 94104  
Telephone: (415) 989-1900

Attorneys for Plaintiff The Continental  
Insurance Company

# EXHIBIT 5

**DECLARATION OF VANCE WOODWARD IN SUPPORT OF THE CONTINENTAL INSURANCE  
COMPANY'S AND CENTURY INDEMNITY COMPANY'S JOINT MOTION TO DISMISS OR STAY THE  
ACTION BASED ON *FORUM NON CONVENIENS***

***CYPRUS AMAX MINERALS Co., ET AL., v. CONTINENTAL CASUALTY Co., ET AL.***

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

**CASE No. BC 391068**



## *Enviro-Tox Loss Services, Inc.*

*2421 Callender Rd. Suite 123  
Mansfield, TX 76063  
www.etls.net*

*Larry Poling and Joseph Peters  
Phone: 817-561-9675  
Fax: 817-561-9678  
P.O. Box 172859  
Arlington, TX 76017*

*Gene Waymon  
Phone: 508-746-3190  
Fax: 508-746-4247  
P.O. Box 3253  
Plymouth, MA 02361*

December 21, 2007

Margo Dedeyan  
Claims Specialist  
Resolute Management, Inc.  
Mid-Atlantic Division  
United Plaza-Suite 700  
30 South 17<sup>th</sup> Street  
Philadelphia, Pa 19103

Certified Mail, Return Receipt Requested  
7006 0100 0002 2199 9796

Robert Galardi  
Claim Specialist  
CNA  
Law Department  
Environmental & Mass Tort Claims  
Cranbury Executive Center  
1249 South River Road, Suite 300  
Cranbury, NJ 08512

Certified Mail, Return Receipt Requested  
7006 0100 0002 2199 9789

Re: Freeport-McMoRan Copper & Gold Inc. Document Review Project (Revlon Project)

Dear Ms. Dedeyan and Mr. Galardi:

Thank you for meeting with us on December 6, 2007 in Philadelphia. At the meeting Freeport-McMoRan Copper & Gold Inc. (FCX) agreed to provide the additional information you requested concerning the review of Cyprus Amax Minerals Company (Cyprus Amax) documents currently housed at the former Revlon facility in Phoenix, Arizona (Revlon). In accordance with that agreement, enclosed are the following:

- Revlon Building Floor Plan
- Agreement for Payment of Revlon Building Lease
- Revised Case List
- Case-specific pro-rata sheets of each Cyprus Amax case on the revised case list
- Email from counsel regarding the inactive Ohio cases
- Contact List for silica cases insurers
- FCX Insurance Program Chart

The following additional items will be forwarded to you under separate cover:

Page 2

December 21, 2007

Peters to CNA and INA

- Quarterly status reports both on how litigation is going and the status of the document review project for quarter ending December 31, 2007
- Budget for Louisiana litigation (range)

#### Project Overview

The Revlon Project was started in April 2005 with the discovery of various pockets of stored documents at various locations through the company. The subsequent discovery of Cyprus Amax documents that had been previously marked for destruction by Cyprus Amax prior to the merger between Cyprus Amax and Phelps Dodge Corporation in December 1999 caused concern that our prior responses to discovery requests may have been flawed. As a result of this discovery, we proceeded to review the document indexes for storage boxes received from Cyprus Amax we received and found an almost 50% error rate. At that time, it was determined that a comprehensive review should be undertaken; so these boxes were included in the Revlon Project.

#### Project Details

Date Commenced:	April 2005
Total Leased Space (square feet):	216,300
Lease Costs per Square Foot:	Varies (from \$0.72 to \$.081)
Total Number of Boxes:	62,712
Reviewing Counsel:	Ryley Carlock, & Applewhite
Rate of Review per Month:	2,000 boxes
Estimated Projected Completion:	Summer 2008

#### Cyprus Amax Document Review

Date Commenced:	February 2007
Total Number of Cyprus Amax Boxes:	23,425 (all collections)
Estimated Cyprus Amax Review Cost:	\$7.8 mil
Total Billed to Date for Cyprus Amax:	\$3.9 mil
Estimated Remaining Review Cost:	\$3.9 mil

#### Cyprus Amax Document Review Justification

There are a number of Amax asbestos and Cyprus clay, talc and silica cases presently in litigation. In each of these cases, discovery has been propounded to the defendants by the plaintiffs. Though these discovery requests may have been previously answered by Cyprus Amax, a continuing obligation exists for Cyprus Amax to examine any newly discovered documents to determine if material relevant to ongoing litigation is contained and, if need be, to supplement their responses to discovery. This obligation is the direct purpose of the Cyprus Amax document review and the sole reason that Cyprus Amax insurers are being asked to participate in the payment of this portion of the Revlon Project. The document review, entry into the database and scanning is being conducted on the first floor of Building B-1 of the former Revlon facility (a copy of the floor plan is included in this package.) There are approximately 18,000 Cyprus Amax boxes that have commingled corporate records from both Cyprus Minerals Company and Amax Inc. are currently being reviewed at the Revlon facility. The review of the other Cyprus Amax collections have been completed and were not charged to the Cyprus Amax insurers. Thus far, roughly 41% to 46% of the boxes reviewed contain information pertaining to and potentially responsive to Cyprus Amax asbestos, silica, and talc litigation.

#### Selection of Active Cases

Cases for allocation of the Cyprus Amax document review costs were selected based on whether the case was active and an ongoing discovery obligation existed. The enclosed case list shows the open and active Cyprus Amax cases. As previously discussed, the original list was in error as it contained a number of cases that had previously been resolved. That revised case list will be

Page 3

December 21, 2007

Peters to CNA and INA

used on a going forward basis. As new cases are filed, the list will be modified to include the new cases. Similarly, as cases are resolved, the list will be modified to omit the resolved cases.

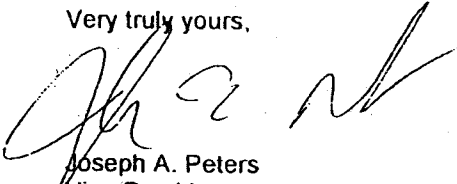
**Correction of Prior Invoices**

To date, the Cyprus Amax insurers have been billed \$3,852,771.63 (Amax Louisiana asbestos \$3,105,173.61; Cyprus clay, talc and silica \$747,598.02). Because of the error noted above, the allocation of these costs will have to be adjusted. We have also included a breakdown of the percentages owed by each insurer as well as Freeport's share. We are unable to share the cost allocation on the silica cases because the percentages are part of a confidential cost sharing agreement. We have included a contact list for these insurers for your convenience.

In summary, your insured has undertaken a review of the Cyprus Amax boxes in order to comply with its ongoing discovery obligations on active cases in which you are participating in the defense. This review is part of that defense and, as such, your insured fully expects you to participate in this project. At this point, your insured has been paying a large share of legal expenses associated with its discovery obligation which rightfully should be paid by you. Therefore, please provide your written commitment to participate in the Cyprus Amax review project no later than 5:00 PM EST on January 15, 2008. Furthermore, the insured requests that your reimbursement payments begin no later than 5:00 PM EST on January 31, 2008.

I thank you in advance for your time and attention to this matter and I look forward to receiving your response at your earliest possible convenience.

Very truly yours,



Joseph A. Peters  
Vice-President  
Enviro-Tox Loss Services, Inc.

# EXHIBIT 6

**DECLARATION OF VANCE WOODWARD IN SUPPORT OF THE CONTINENTAL INSURANCE  
COMPANY'S AND CENTURY INDEMNITY COMPANY'S JOINT MOTION TO DISMISS OR STAY THE  
ACTION BASED ON *FORUM NON CONVENIENS***

***CYPRUS AMAX MINERALS Co., ET AL., v. CONTINENTAL CASUALTY Co., ET AL.***

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

**CASE No. BC 391068**

STEVEN B. BITTER  
SBITTER@GORDONREES.COM  
DIRECT DIAL: (619) 230-7770

GORDON & REES LLP

ATTORNEYS AT LAW  
101 W. BROADWAY, SUITE 2000  
SAN DIEGO, CA 92101  
PHONE: (619) 696-6700  
FAX: (619) 696-7124  
WWW.GORDONREES.COM

May 13, 2008

VIA EMAIL AND U.S. MAIL

Mark J. Plumer, Esq.  
HELLER EHRMAN LLP  
1717 Rhode Island Avenue, NW  
Washington, D.C. 20036-3001

Lisa M. Cirando, Esq.  
HELLER EHRMAN LLP  
Times Square Tower  
7 Times Square  
New York, NY 10036-6524

Re: Companies:	Truck Insurance Company Fireman's Fund Insurance Company Old Republic Insurance Company CNA Insurance Company
Insured:	Cyprus Mines Corporation
Policy Nos.:	Various
Re:	Talc Litigation

Dear Mr. Plumer and Ms. Cirando:

On behalf of Truck Insurance Company, Fireman's Fund Insurance Company, Old Republic Insurance Company and Continental Casualty Insurance Company (collectively referred to herein as the "Cyprus Mines Insurers"), this correspondence responds to Mr. Plumer's May 6, 2008, letter with respect to an intent to disclose portions of the Cyprus Confidential Settlement Agreement for Defense and Indemnification for Certain Bodily Injury Claims (the "Agreement"), and also responds to Ms. Cirando's letter of the same date with respect to the proposed deposition of Bobby J. Medlin.

1. The Proposed Disclosure of the Agreement By Cyprus Amax Minerals Company ("Cyprus Amax"). The Cyprus Mines Insurers object to the proposed disclosure by Cyprus Amax or all or any portion of the Agreement at this time. The Cyprus Mines Insurers believe that Cyprus Amax has not complied in good faith with the terms and conditions of the

Mark J. Plumer, Esq.  
Lisa M. Cirando, Esq.  
May 13, 2008  
Page 2

Agreement with respect to mediation (Section IX), and that Cyprus Amax has no present need to disclosure all or any portion of the Agreement.

As we have previously discussed with you, both the letter and spirit of the Agreement compel the parties to submit their disputes as to the interpretation or enforcement of the Agreement *prior* to the initiation of any action based on that Agreement. The mediation requirement unquestionably serves multiple purposes. First, it is a recognition by the parties that mediation of insurance coverage/fee disputes is a potentially effective, expedient and efficient means of resolving disputes among the parties without incurring the exorbitant costs associated with protracted litigation. Second, and related to the first point, the mediation requirement is a recognition by the parties that, given the statistical success of the mediation process, requiring the parties to first submit their disputes to mediation is a means to resolve disputes without placing the confidential terms of the Agreement into the public domain. In other words, the parties can maintain the confidentiality of the Agreement during the mediation process, as opposed to a limited, if not full, disclosure of the terms of the Agreement in litigation.

For at least these reasons, the scheduling and completion of a mediation is a necessary condition precedent to the commencement of litigation. To that end, the Cyprus Mines Insurers again confirm their agreement to participate in a mediation on the terms and conditions set forth in our May 2, 2008, letter.

The Cyprus Mines Insurers understand that Cyprus Amax and you have refused to proceed with a mediation to be scheduled on dates and terms mutually acceptable to both Cyprus Amax and the Cyprus Mines Insurers, principally on the grounds that Cyprus Amax is required to file its coverage lawsuit in California in order to bolster its position in the New York federal action. However, as set forth in your letter of May 6, 2008, Cyprus Amax has now admitted that it has no present, legitimate need to commence litigation against the Cyprus Mines Insurers at this time, as Cyprus Amax will be advising the District Court in New York only of a lawsuit to be filed at some time in the future. Accordingly, it is clear to me that Cyprus Amax and you necessarily concede that although the filing of the lawsuit in California may assist Cyprus Amax in moving to dismiss the New York Action, litigation in California certainly is not a condition precedent to seeking relief in New York.

For these reasons, the Cyprus Mines Insurers object to the intended disclosure of any of the terms of the Agreement. Alternatively, and only if for some reason Cyprus Amax proceeds to commence litigation in California without first exhausting the mediation requirement, Cyprus Amax must file a Complaint without disclosing any of the material terms of the Agreement. Please provide us with the provisions of the Agreement you propose to reveal in advance of disclosure. In that event, the Cyprus Mines Insurers would agree that Cyprus Amax can and will file an Amended Complaint as appropriate following resolution of the issue in New York.

2. The Proposed Deposition of Bobby J. Medlin. At present, the Cyprus Mines Insurers qualifiedly object to the proposed deposition on the grounds that insufficient information as to Mr. Medlin's medical condition has been provided to permit the Cyprus Mines Insurers, its counsel, and a Court, to make an informed decision as to whether a preservation

Mark J. Plumer, Esq.  
Lisa M. Cirando, Esq.  
May 13, 2008  
Page 3

deposition is appropriate at this time. The Cyprus Mines Insurers and its counsel are entitled to additional information as to Mr. Medlin's condition, including current and future treatments (and the timing of same) and his short and long term prognosis.

Assuming that information is provided, and further assuming that the information confirms that a preservation deposition is appropriate at this time, the Cyprus Mines Insurers would consent to that deposition on terms and conditions similar to those set forth in Mr. Jacobus' letter of May 13, 2008. More specifically, the Cyprus Mines Insurers would agree to the proposed deposition on the following terms and conditions:

a. Cyprus Amax will meet and confer with the Cyprus Mines Insurers and other interested parties as to a mutually convenient date for the deposition. On a related point, please be advised that May 20, 2008, is not an acceptable date for the deposition.

b. Cyprus Amax and all related parties, including but not necessarily limited to Freeport-McMoRan Copper and Gold, Inc., Phelps Dodge Corporation, Amax, Inc. and American Metal Climax, Inc. will produce all of the following documents at least ten (10) days in advance of the deposition:

(i) All documents previously requested by the Cyprus Mines Insurers, including but not limited to those identified most recently in our letter of April 16, 2008;

(ii) All documents that relate to the project from its inception in 2005 to the present, including all budgets, projections, reports, correspondence, bids and leases; and

(iii) A privilege log with sufficient particularity to permit the Cyprus Mines Insurers to assess any assertion of privilege of any document withheld from the production.

If, for any reason, these terms and conditions are not acceptable to Cyprus Amax, we remain willing and available to further meet and confer with you.

Very truly yours,

  
Steven B. Bitter

cc: Gary J. Lorch, Esq.  
Jerry Pizzo, Truck Insurance Exchange (via electronic mail)  
Amanda Webber, Fireman's Fund Insurance Company (via electronic mail)  
Jeff Emory, Old Republic Insurance Company (via electronic mail)  
John Kotte, CNA Insurance Company (via electronic mail)

# EXHIBIT 7

**DECLARATION OF VANCE WOODWARD IN SUPPORT OF THE CONTINENTAL INSURANCE  
COMPANY'S AND CENTURY INDEMNITY COMPANY'S JOINT MOTION TO DISMISS OR STAY THE  
ACTION BASED ON *FORUM NON CONVENIENS***

***CYPRUS AMAX MINERALS Co., ET AL., v. CONTINENTAL CASUALTY Co., ET AL.***

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

**CASE No. BC 391068**



IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

CENTURY INDEMNITY COMPANY, AS  
SUCCESSOR TO CCI INSURANCE  
COMPANY, AS SUCCESSOR TO  
INSURANCE COMPANY OF NORTH  
AMERICA and THE CONTINENTAL  
INSURANCE COMPANY

Plaintiffs,

versus

FREEPORT-MCMORAN COPPER &  
GOLD INC., AS THE CLAIMED  
SUCCESSOR TO PHELPS DODGE  
CORPORATION, AS THE CLAIMED  
SUCCESSOR TO CYPRUS AMAX  
MINERALS COMPANY, AS THE  
CLAIMED SUCCESSOR TO AMAX,  
INC. AND AMAX METALS RECOVERY,  
INC., AS SUCCESSOR TO AMERICAN  
METAL CLIMAX, INC.

Defendant.

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT

CIVIL ACTION NO. 08 CV 02012

ELECTRONICALLY FILED  
DOCUMENT

COMPLAINT

Plaintiffs Century Indemnity Company (as successor to CCI Insurance Company, as successor to Insurance Company of North America) ("Century") and The Continental Insurance Company ("Continental") invoke the jurisdiction of this court pursuant to 28 U.S.C.A. § 1332 (diversity of citizenship) and plead as their complaint against defendant Freeport-McMoRan Copper and Gold Inc., as the claimed successor to Phelps Dodge Corporation, as the claimed successor to Cyprus Amax Minerals Company, as the claimed successor to Amax, Inc., as successor to American Metal Climax, Inc. ("Freeport McMoRan") as follows:

## INTRODUCTION

1. In this insurance coverage action, Century and Continental seek a declaratory judgment that the liability insurance policies Century and Continental issued to Amax, Inc. and/or American Metal Climax, Inc. (collectively, "Amax") provide no insurance coverage for the costs Freeport-McMoRan claims it has incurred and continues to incur in its effort to assimilate the corporate records of Amax into Freeport-McMoRan's own corporate records (the "Corporate Records Assimilation Project"). Century and Continental also seek a declaration of all rights and obligations between the parties under the insurance policies issued by Century and Continental to Freeport-McMoRan with respect to the underlying Louisiana Litigation (defined below). Century and Continental further seek to recover on the basis of unjust enrichment any past payments made by Century and Continental based on false and/or misleading information provided by Freeport-McMoRan in connection with the Louisiana Litigation, and any payments that were made by Century and Continental for uncovered defense costs submitted by Freeport-McMoRan, which unjustly enrich Freeport-McMoRan. Finally, Continental seeks to recover damages for Freeport-McMoRan's fraudulent misrepresentations with respect to the Corporate Records Assimilation Project.

## THE PARTIES

2. Plaintiff Century is a corporation that is incorporated in the Commonwealth of Pennsylvania and whose principal place of business is in Philadelphia, Pennsylvania. Century, for purposes of 28 U.S.C.A. § 1332 (c), is a citizen of Pennsylvania.

3. Plaintiff Continental is a corporation that is incorporated in the Commonwealth of Pennsylvania and whose principal place of business is in Chicago, Illinois. Continental, for purposes of 28 U.S.C.A. § 1332 (c), is a citizen of Pennsylvania and Illinois.

4. Defendant Freeport-McMoRan is a corporation that is incorporated in the State of Delaware and whose principal place of business is in New Orleans, Louisiana. Freeport-McMoRan, for purposes of 28 U.S.C.A. § 1332 (c), is a citizen of Delaware and Louisiana.

#### AMOUNT IN CONTROVERSY

5. Freeport-McMoRan claims it has incurred \$3,900,000 through December 2007 and that it will incur a total of \$7,800,000 by year-end 2008 for the Corporate Records Assimilation Project. The parties dispute whether (a) Freeport-McMoRan is entitled to coverage under the policies that Century and Continental issued to Amax, and (b) even if Freeport-McMoRan is entitled to coverage, whether Century and Continental are responsible for these costs. Freeport-McMoRan further claims that it is entitled to reimbursement of defense costs incurred in connection with the Louisiana Litigation. Although Century and Continental have in the past paid amounts purported to be their proportionate and equitable share of covered reasonable and necessary defense costs, Century and Continental dispute the amount claimed by Freeport-McMoRan.

#### JURISDICTION

6. Jurisdiction is proper in this court under 28 U.S.C.A. § 1332 (diversity of citizenship) because this is a civil action between citizens of different states where the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

#### VENUE

7. Venue is proper in this court under 28 U.S.C.A. § 1391 (a) and 28 U.S.C.A. § 1391 (c) because Freeport-McMoRan is a defendant corporation that resides in this judicial district because it is subject to personal jurisdiction in this district at the date of commencement of this action.

8. Venue is further proper in this court under 28 U.S.C.A. § 1391 (a) and 28 U.S.C.A. § 1391 (c) because a substantial part of the events or omissions giving rise to the claim occurred in this judicial district.

**STATEMENT OF CENTURY'S AND CONTINENTAL'S CLAIM**

9. On January 1, 1958, Climax Molybdenum Company merged with American Metals Company to form American Metal Climax, Inc.

10. On or after January 1, 1975, American Metal Climax, Inc. became Amax, Inc.

11. On or around November 15, 1993, Amax, Inc. merged with Cyprus Minerals Company to form Cyprus Amax Minerals Company.

12. On December 2, 1999, Phelps Dodge Corporation acquired Cyprus Amax Minerals Company.

13. Amax Minerals Recovery, Inc. ("AMRI") is a wholly owned subsidiary of Cyprus Amax Minerals Company.

14. On March 19, 2007, Freeport-McMoRan acquired Phelps Dodge Corporation.

15. Century issued the following liability insurance policies to Amax, which at the time of issuance, had its principal place of business located in New York, New York:

- (a) Policy No. LB 39736 for the January 1, 1965 to January 1, 1968 policy period;
- (b) Policy No. ALB 47168 for the January 1, 1968 to January 1, 1971 policy period;
- (c) Policy No. ALB 47212 for the January 1, 1971 to January 1, 1972 policy period;

- (d) Policy No. ALB 47240 for the January 1, 1972 to January 1, 1974 policy period;
- (e) Policy No. ALB 47276 for the January 1, 1974 to January 1, 1975 policy period; and
- (f) Policy No. ALB 47279 for the January 30, 1974 to January 1, 1975 policy period.

16. Continental issued the following primary, occurrence-based, liability insurance policies to Amax, which at the time of issuance of at least the first policy at issue, had its principal place of business located in New York, New York:

- (a) Policy No. L-3 32 08 62 for the January 1, 1975 to January 1, 1976 policy period;
- (b) Policy No. L-3 61 88 26 for the January 1, 1976 to January 1, 1977 policy period;
- (c) Policy No. L 1 18 43 28 for the January 1, 1977 to January 1, 1980 policy period;
- (d) Policy No. SRL-3 63 59 13 for the January 1, 1980 to January 1, 1981 policy period;
- (e) Policy No. SRL 3 63 60 99 for the January 1, 1981 to January 1, 1982 policy period;
- (f) Policy No. SRL 3 63 62 91 for the January 1, 1982 to January 1, 1983 policy period;
- (g) Policy No. SRL 3 63 66 77 for the January 1, 1983 to January 1, 1984 policy period;

- (h) Policy No. SRL 3 63 68 59 for the January 1, 1984 to January 1, 1985 policy period;
- (i) Policy No. SRL 3 34 44 12 for the January 1, 1985 to January 1, 1986 policy period;
- (j) Policy No. SRL 3 34 74 18 for the January 1, 1986 to April 1, 1986 policy period.

**ALLOCATION OF PAST COSTS AND OTHER ORDINARY BUSINESS EXPENSES**

17. AMRI, a wholly owned subsidiary of Freeport-McMoRan, has been sued by underlying claimants in connection with alleged asbestos exposure at its former facility in Braithwaite, Louisiana (the "Louisiana Litigation").

18. AMRI has sought and continues to seek reimbursement of certain claimed costs of defending itself in the Louisiana Litigation under the Century and Continental policies.

19. Century and Continental have in the past reimbursed AMRI for their claimed proportionate and equitable share of AMRI's purported reasonable and necessary covered defense costs under an express reservation of rights.

20. The Century and Continental policies only pay for damages and defense costs attributable to bodily injury that occurs *during the policy period*.

21. Freeport-McMoRan's other insurers are responsible for damages and defense costs attributable to bodily injury occurring during their respective policy periods, and Freeport-McMoRan is responsible for any damages and defense costs attributable to bodily injury occurring during uninsured periods.

22. Freeport-McMoRan has improperly allocated and billed to Century and Continental defense costs attributable to bodily injury occurring outside of Century's and Continental's respective policy periods.

23. Freeport-McMoRan has also improperly billed Century and Continental for the cost of National Coordinating Counsel ("NCC") in a disproportionate amount to the actual amount of services NCC has provided in connection with the Louisiana Litigation.

24. Freeport-McMoRan has further improperly billed Century and Continental for the document storage costs of corporate and historical documents related to the Braithwaite facility. These are ordinary business costs that should be borne by Freeport-McMoRan.

25. Century and Continental in good faith and under an express reservation of rights have paid Freeport-McMoRan certain amounts improperly billed to Century and Continental.

26. Freeport-McMoRan was not entitled to the above amounts improperly billed to and paid by Century and Continental.

#### **CORPORATE RECORDS ASSIMILATION PROJECT**

27. Beginning in April 2005, Phelps Dodge Corporation began to ship corporate documents from its locations around the country to Phoenix, Arizona to review the documents and to assimilate those records into its general corporate records.

28. Beginning in February 2007, Phelps Dodge Corporation undertook the review and corporate assimilation of the documents it obtained from Cyprus Amax Minerals Company when Phelps Dodge Corporation acquired Cyprus Amax Minerals Company in 1999.

29. Phelps Dodge Corporation neither sought nor obtained the consent of Century or Continental before it began the review and corporate assimilation of the Cyprus Amax Minerals Company records.

30. Since February or March 2007, Freeport-McMoRan has continued the review and corporate assimilation of the Cyprus Amax Minerals Company records.

31. Freeport-McMoRan neither sought nor obtained the consent of Century or Continental before it continued the review and corporate assimilation of the Cyprus Amax Minerals Company records.

32. Through December 2007, Freeport-McMoRan claims the review and corporate assimilation of the Cyprus Amax Minerals Company records cost \$3,900,000.

33. Through the project's completion, Freeport-McMoRan claims the review and corporate assimilation of the Cyprus Amax Minerals Company records will cost an additional \$3,900,000, for a total of \$7,800,000.

34. Freeport-McMoRan claims the insurance policies Century and Continental issued to Amax cover the cost of the assimilation of the Cyprus Amax Minerals Company corporate records into Freeport-McMoRan's corporate records.

35. Century and Continental deny any obligation for the cost of the Corporate Records Assimilation Project.

36. An actual controversy exists between Century and Continental, on the one hand, and Freeport-McMoRan, on the other hand, over whether the insurance policies cover the cost of the Corporate Records Assimilation Project.

#### **COUNT I**

#### **CENTURY AND CONTINENTAL VERSUS FREEPORT-McMoRAN**

#### ***DECLARATORY JUDGMENT***

37. Century and Continental seek a declaratory judgment under 28 U.S.C.A. § 2201 that Century and Continental are only obligated to pay their share of indemnity and defense costs



attributable to bodily injury occurring during the policy period under the Century and Continental policies.

38. Century and Continental seek a declaratory judgment under 28 U.S.C.A. § 2201 that Century and Continental are only obligated to pay their share of indemnity and defense costs attributable to bodily injury occurring during the policy period under the Century and Continental policies.

39. Century and Continental further seek a declaratory judgment under 28 U.S.C.A. § 2201 declaring the rights and obligations of Century and Continental to reimburse Freeport-McMoRan for NCC and document storage costs currently being billed to Century and Continental purportedly in connection with the Louisiana Litigation.

40. Century and Continental similarly seek a declaratory judgment under 28 U.S.C.A. § 2201 declaring that the insurance policies issued to Amax do not provide coverage for the cost of the Corporate Records Assimilation Project on the following grounds:

- (a) The costs incurred are not defense costs within the meaning of the policies;
- (b) Century and Continental are not responsible for costs Freeport-McMoRan voluntarily incurs;
- (c) Century and Continental are not responsible for costs Freeport-McMoRan incurred without Century's and Continental's consent;
- (d) Century and Continental are not responsible for unreasonable and/or unnecessary costs;

- (e) Freeport-McMoRan is neither the named insured nor a successor entitled to coverage under the liability insurance policies that Century and Continental issued to Amax;
- (f) Freeport-McMoRan failed to cooperate with Century and Continental, as the policies require; and
- (g) Any other grounds stemming from the policies, the law, or otherwise.

#### **DEMAND FOR JUDGMENT**

Wherefore, Century and Continental demand judgment, as follows:

- i. A declaratory judgment that Century and Continental have no obligation to pay for Freeport-McMoRan's Corporate Records Assimilation Project;
- ii. Alternatively, should the court determine that Century and Continental have an obligation to pay any portion of the Corporate Records Assimilation Project, a declaratory judgment over the respective rights and obligations of the parties under the Century and Continental policies, and declaratory judgment for the amount of any obligation of Century and/or Continental to pay for the Corporate Records Assimilation Project;
- iii. A declaration of the rights of all parties under the Century and Continental Policies regarding the Louisiana Litigation;
- iv. Costs; and
- v. All other relief to which Century and Continental are entitled.

COUNT II

CENTURY AND CONTINENTAL VERSUS FREEPORT-McMoRAN

*UNJUST ENRICHMENT*

41. Century and Continental restate the allegations set forth in paragraphs 1 through 40 of this complaint and incorporate them by reference herein.

42. Freeport-McMoRan was unjustly enriched by payments made by Century and Continental to Freeport-McMoRan based on Freeport-McMoRan's improper allocation and billing.

43. Freeport-McMoRan's unjust enrichment was made at the expense of Century and Continental.

44. Equity and good conscience require Freeport-McMoRan to make restitution to Century and Continental.

Wherefore, Century and Continental demand judgment, as follows:

- i. Compensatory damages for all amounts billed to and paid by Century and Continental for uncovered defense costs purportedly related to the Louisiana Litigation.
- ii. Costs;
- iii. All other relief to which Century and Continental are entitled.

COUNT III

CONTINENTAL VERSUS FREEPORT-MCMORAN

*FRAUD*

59. Since at least as early as January 1, 2007, Enviro-Tox Loss Services, Inc. has been an agent of Cyprus Amax Minerals Company and/or Phelps Dodge Corporation.

60. At all times from January 1, 2007 to the present, Cyprus Amax Minerals Company and/or Phelps Dodge Corporation has authorized Enviro-Tox Loss Services, Inc. to attempt to get Continental to pay for the costs of the Corporate Records Assimilation Project.

61. Since at least as early as January 1, 2007, Enviro-Tox Loss Services, Inc. has helped manage the Corporate Records Assimilation Project for Cyprus Amax Minerals Company and Phelps Dodge Corporation.

62. Neither Enviro-Tox Loss Services, Inc. nor Cyprus Amax Minerals Company nor Phelps Dodge Corporation informed Continental of the existence of the Corporate Records Assimilation Project before May 8, 2007.

63. Neither Enviro-Tox Loss Services, Inc. nor Cyprus Amax Minerals Company nor Phelps Dodge Corporation informed Continental that Cyprus Amax Minerals Company and/or Phelps Dodge Corporation had hired a new law firm, Ryley Carlock & Applewhite, to review the Cyprus Amax Minerals Company documents before May 8, 2007.

64. When the Corporate Records Assimilation Project was begun in February 2007, Cyprus Amax Minerals Company and Phelps Dodge Corporation knew there were over 10,000 boxes of Cyprus Amax Minerals Company documents Phelps Dodge Corporation and Cyprus Amax Minerals Company intended to review.

65. When the Corporate Records Assimilation Project was begun in February 2007, Cyprus Amax Minerals Company and Phelps Dodge Corporation knew the project would cost millions of dollars.

66. On or about May 8, 2007, Cyprus Amax Minerals Company and Phelps Dodge Corporation delivered to Continental bills for an Amax records review.

67. On or about May 8, 2007, Yvonne Prater of Continental called Cyprus Amax Minerals Company's and Phelps Dodge Corporation's agent Enviro-Tox Loss Services, Inc. to inquire about the bills.

68. On or about May 8, 2007, Robert Medlin, an employee of Enviro-Tox Loss Services, Inc., acting on behalf of Cyprus Amax Minerals Company and/or Phelps Dodge, told Ms. Prater that the bills were for new documents found in Arizona.

69. On or about May 8, 2007, Mr. Medlin misrepresented and/or failed to disclose to Continental that the documents were not found in Arizona, though Mr. Medlin, Cyprus Amax Minerals Company, and Phelps Dodge Corporation knew the documents were not from Arizona.

70. On or about May 8, 2007, Mr. Medlin misrepresented and/or failed to disclose to Continental that the documents were unrelated to underlying tort litigation but were instead a corporate records management project, though Mr. Medlin, Cyprus Amax Minerals Company, and Phelps Dodge Corporation knew the project was a corporate records assimilation effort.

71. On or about May 8, 2007, Mr. Medlin misrepresented and/or failed to disclose to Continental the scope of the project, though Mr. Medlin, Cyprus Amax Minerals Company, and Phelps Dodge Corporation knew the project involved well over 10,000 boxes of documents.

72. On or about May 8, 2007, Mr. Medlin misrepresented and/or failed to disclose to Continental the cost of the project, even though Mr. Medlin, Cyprus Amax Minerals Company, and Phelps Dodge Corporation knew the project would cost millions of dollars to complete.

73. Mr. Medlin, through his misrepresentations and failure to disclose the true nature of the project to Ms. Prater, deceived Continental into believing the bills were legitimate defense costs.

74. By reason of Cyprus Amax Minerals Company's and Phelps Dodge Corporation's agent Enviro-Tox Loss Services, Inc.'s knowing misrepresentations and failure to disclose to Continental the true nature of the Corporate Records Assimilation Project, Cyprus Amax Minerals Company and Phelps Dodge Corporation fraudulently caused Continental to pay approximately \$211,000 of the costs of the Corporate Records Assimilation Project.

#### **DEMAND FOR JUDGMENT**

Wherefore, Continental demands judgment, as follows:

- i. Judgment in the amount of \$211,000 or in accordance with the proof at trial;
- ii. Costs;
- iii. Interest; and
- iv. All other relief to which Continental is entitled.

Dated: May 9, 2008

**WHITE AND WILLIAMS LLP**

By: s/ Rafael Vergara

Rafael Vergara (RV-4098)

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-and-

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*Attorneys for plaintiff Century Indemnity  
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**CARROLL BURDICK & McDONOUGH  
L.L.P.**

By: s/ Alan P. Jacobus

Alan P. Jacobus (admitted *pro hac vice*)

Carroll Burdick & McDonough L.L.P.

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San Francisco, California 94104

Telephone: (415) 989-1900

*Attorneys for plaintiff The Continental  
Insurance Company*

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

CENTURY INDEMNITY COMPANY, AS  
SUCCESSOR TO CCI INSURANCE  
COMPANY, AS SUCCESSOR TO  
INSURANCE COMPANY OF NORTH  
AMERICA and THE CONTINENTAL  
INSURANCE COMPANY

Plaintiffs,

versus

FREEPORT-MCMORAN COPPER &  
GOLD INC., AS THE CLAIMED  
SUCCESSOR TO PHELPS DODGE  
CORPORATION, AS THE CLAIMED  
SUCCESSOR TO CYPRUS AMAX  
MINERALS COMPANY, AS THE  
CLAIMED SUCCESSOR TO AMAX,  
INC., AS THE CLAIMED SUCCESSOR  
TO AMERICAN METAL CLIMAX, INC.

Defendant.

DEMAND FOR TRIAL BY JURY

CIVIL ACTION NO.

DEMAND FOR TRIAL BY JURY

Pursuant to FED. R. Civ. P. 38 (b) plaintiffs Century Indemnity Company and The  
Continental Insurance Company hereby demand a trial by jury of issues so triable.



Dated: May 9, 2008

**WHITE AND WILLIAMS LLP**

By: s/ Rafael Vergara

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*Attorneys for plaintiff The Continental  
Insurance Company*

# EXHIBIT 8

**DECLARATION OF VANCE WOODWARD IN SUPPORT OF THE CONTINENTAL INSURANCE  
COMPANY'S AND CENTURY INDEMNITY COMPANY'S JOINT MOTION TO DISMISS OR STAY THE  
ACTION BASED ON *FORUM NON CONVENIENS***

***CYPRUS AMAX MINERALS Co., ET AL., v. CONTINENTAL CASUALTY Co., ET AL.***

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

**CASE No. BC 391068**



**Cranbury Executive Center  
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February 28, 2008

**By United States Mail, Return Receipt Requested**

Joseph A. Peters  
Vice-President  
Enviro-Tox Loss Services, Inc.  
2421 Callender Road  
Suite 123  
Mansfield, Texas 76063

Re: Your December 21, 2007 Letter Concerning the Revlon Project

Dear Mr. Peters:

I write in response to your December 21, 2007 letter to me, demanding that The Continental Insurance Company "participate" in what you term the Revlon Project. For the reasons that follow, Continental disclaims any obligation to pay for any fees or expenses allegedly incurred in the project. In your letter, you state you are acting on behalf of Freeport-McMoRan Copper & Gold Inc. and Cyprus Amax Minerals Company (for sake of convenience here "Freeport/Cyprus Amax"). Continental reserves all rights with respect to any coverage Freeport claims under the Continental policies until it is plain Freeport is making a claim and, if so, what the nature of the claim is. We presume you will forward this letter to the appropriate persons for Freeport and Cyprus Amax. If you do not intend to do so, we request immediate written confirmation.

As a preliminary matter, Continental has investigated Freeport/Cyprus Amax's claim thoroughly. I attended the December 6, 2007 meeting in Philadelphia, we have evaluated your December 21, 2007 letter and the materials enclosed with it, and Continental's coverage counsel attended the Revlon Facility inspection in Phoenix on January 31, 2008. If there is

other information or documents you would like Continental to consider, I would ask that you please send them to me at your earliest convenience. We would also request that Freeport/Cyprus Amax enclose all documents relating to document retention and storage of the Cyprus Amax documents from 1999 to the present, including all documents and reports relating to the Revlon Project itself. We also ask that you clarify under which policies Freeport/Cyprus Amax seek coverage for the Revlon Project. Also, please provide all corporate documents relating to: (1) Freeport's acquisition of Phelps Dodge; (2) Phelps Dodge acquisition of Cyprus Amax; and (3) Amax's merger with Cyprus Minerals Company.

With respect to Continental's coverage disclaimer, first, Freeport/Cyprus Amax apparently undertook the Revlon Project as a result of the merger between Cyprus Amax and Phelps Dodge Corporation in December 1999. According to your letter, the project began in April 2005 and continued through December 2007, with the expectation that it will continue into the future. Continental had no notice whatsoever of the Revlon Project until late 2007, after Freeport had hired outside counsel (Riley Carlock & Applewhite) and incurred \$3.9 million (with an estimated additional \$3.9 million needed to complete the project). As such, Freeport/Cyprus Amax voluntarily assumed the obligation to the Riley firm and voluntarily incurred \$7.8 million in expenses for the project. As you know, any obligation or expense Freeport/Cyprus Amax assume is at Freeport/Cyprus Amax's own cost under the Continental policies. For this reason, Continental denies coverage for the fees and costs associated with the Revlon Project.

Second, the fees and expenses associated with the Revlon Project are not defense costs at all, but instead an ordinary business expense (document retention and storage) that companies incur in the ordinary course of their business. As such, the Continental policies provide no coverage for the fees and costs associated with the project. This is even more the case because, as Continental understands it, many of the underlying Ohio tort claims are administratively stayed or dismissed and the indemnity paid on the Louisiana claims totals less than \$25,000 to date. We also understand that not a single document reviewed as part of the Revlon Project has ever been produced in the underlying litigation. As such, the project is neither reasonable nor necessary given the limited nature of the underlying litigation and Continental denies coverage on this ground as well.

Third, Continental did not request Freeport/Cyprus Amax to undertake the project. The Continental policies do not provide coverage for expenses Freeport/Cyprus Amax unilaterally incur and for this reason too there is no coverage for those fees or expenses under the Continental policies. Moreover, even if the fees and/or expenses qualified as reimbursable under the Continental policies, the policies' per diem caps apply.

Fourth, based upon the limited information that we have about the corporate history of Amax, it is unclear whether Freeport is entitled to any coverage under the policies Continental issued to Amax.

Continental further asserts the following as a bar, in whole or in part, to coverage.

- Freeport/Cyprus Amax provided late and otherwise insufficient notice.

- Continental does not provide coverage for any pre-tender obligations Freeport/Cyprus Amax incurred or, as noted above, for any obligations Freeport/Cyprus Amax voluntarily assumed.
- Continental's obligations, if any, with respect to the claim are limited by the applicable other insurance conditions of the policies.
- Continental's obligations, if any, with respect to the claim are limited by any prior insurance and non-cumulation of liability, and subrogation conditions applicable to the Continental policies and are otherwise limited by Continental's rights of contribution or subrogation.
- Continental's obligation, if any, with respect to the claims are limited to the extent Freeport seeks coverage under rights purportedly assigned to it in violation of the anti-assignment provisions of the policies.
- The policies insure Amax. To the extent the claims do not involve insured entities, there may be no coverage under the policies.
- All applicable limits of liability apply to limit or bar coverage for the claim.
- Cyprus Amax remains responsible for all retrospective premium obligations.

If you believe Continental has misunderstood Freeport/Cyprus Amax's request for coverage for the Revlon Project, we invite Freeport/Cyprus Amax to respond in writing. Also, as previously noted, if there is additional information or documents Freeport/Cyprus Amax would like Continental to consider, please send them to my attention and we will evaluate the information or documents to determine whether a change in Continental's coverage position is warranted or necessary.

Finally, this letter supplements all previous claims correspondence Continental has sent. Nothing in this letter is intended to waive or alter in any way any of Continental's previous coverage positions. Nothing in the defense or investigation of these matters shall constitute an estoppel of any of Continental's rights under the policies. Continental expressly reserves the right to rely on all terms, conditions, or exclusions in determining whether or not coverage is afforded under the policies. Further, Continental reserves the right to rely on any additional terms, conditions, exclusions, or limitations to coverage contained within or incorporated in the policies. Likewise, Continental reserves the right to rely on any new factual information that becomes available in the future. Any action that Continental may take in the investigation of this matter is not to be construed as a waiver of any of the terms and conditions of the policies.

Respectfully,



ROBERT GALARDI - Claims Specialist  
The Continental Insurance Company

CC. Gregory D. Winfree, Esq.

# EXHIBIT 9

**DECLARATION OF VANCE WOODWARD IN SUPPORT OF THE CONTINENTAL INSURANCE  
COMPANY'S AND CENTURY INDEMNITY COMPANY'S JOINT MOTION TO DISMISS OR STAY THE  
ACTION BASED ON *FORUM NON CONVENIENS***

***CYPRUS AMAX MINERALS Co., ET AL., V. CONTINENTAL CASUALTY Co., ET AL.***

**SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

**CASE No. BC 391068**

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

**FORM 10-K**

(Mark One)

☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

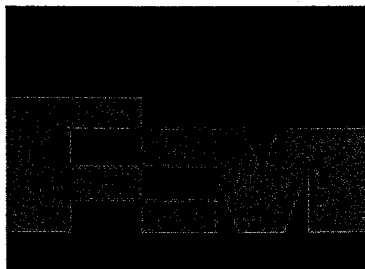
For the fiscal year ended December 31, 2007

OR

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number: 1-9916



**Freeport-McMoRan Copper & Gold Inc.**

(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

74-2480931  
(IRS Employer Identification No.)

One North Central Avenue  
Phoenix, Arizona  
(Address of principal executive offices)

85004-4414  
(Zip Code)

(602) 366-8100

(Registrant's telephone number, including area code)

**Securities registered pursuant to Section 12(b) of the Act:**

Title of each class	Name of each exchange on which registered
Common Stock, par value \$0.10 per share	New York Stock Exchange
7% Convertible Senior Notes due 2011 of the registrant	New York Stock Exchange
6¾% Mandatory Convertible Preferred Stock, par value \$0.10 per share	New York Stock Exchange

**Securities registered pursuant to Section 12(g) of the Act: None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act ☐ Yes ☐ No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. ☐ Yes ☒ No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. ☒ Yes ☐ No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, non-accelerated filer or a smaller reporting company. See definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one): ☒ Large accelerated filer ☐ Accelerated filer ☐ Non-accelerated filer ☐ Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). ☐ Yes ☒ No

The aggregate market value of common stock held by non-affiliates of the registrant was approximately \$35.0 billion on February 15, 2008, and approximately \$31.3 billion on June 30, 2007.

Common stock issued and outstanding was 382,767,582 shares on February 15, 2008, and 381,655,613 shares on June 30, 2007.

**DOCUMENTS INCORPORATED BY REFERENCE**

Portions of our Proxy Statement for our 2008 Annual Meeting are incorporated by reference into Part III (Items 10, 11, 12, 13 and 14) of this report.



List of Subsidiaries of  
Freeport-McMoRan Copper & Gold Inc.

Entity	Jurisdiction of Organization	Name Under Which It Does Business
Ajo Improvement Company	Arizona	Same
Amax Arizona, Inc.	Nevada	Same
Amax de Chile, Inc.	Delaware	Same
Amax Energy Inc.	Delaware	Same
Amax Exploration (Ireland), Inc.	Delaware	Same
Amax Exploration, Inc.	Delaware	Same
Amax Metals Recovery, Inc.	Delaware	Same
Amax Nickel Overseas Ventures, Inc.	Delaware	Same
Amax Realty Development, Inc.	Delaware	Same
Amax Research & Development, Inc.	Delaware	Same
Amax Specialty Coppers Corporation	Delaware	Same
Amax Specialty Metals (Driver), Inc.	Delaware	Same
Amax Zinc (Newfoundland) Limited	Delaware	Same
American Metal Climax, Inc.	Delaware	Same
Ametalco Limited	United Kingdom	Same
Ametalco, Inc.	New York	Same
Annavas Development Co., Ltd.	Delaware	Same
Arizona Community Investment Corporation	Arizona	Same
Atlantic Copper, S.A.U.	Spain	Same
Bisbee Queen Mining Company	Delaware	Same
Blackwell Zinc Company, Inc.	New York	Same
Capital Gestão de Negócios Ltd.	Brazil	Same
Cates Douglas Corporation	Delaware	Same
Chino Acquisition Inc.	Delaware	Same
Chino Mines Company	New Mexico	Same
Climax Canada Ltd.	Delaware	Same
Climax Engineered Materials, LLC	Colorado	Same
Climax Molybdenum Asia Corporation	Delaware	Same
Climax Molybdenum B.V.	The Netherlands	Same
Climax Molybdenum China Corporation	Delaware	Same
Climax Molybdenum Company	Delaware	Same
Climax Molybdenum GmbH	Germany	Same
Climax Molybdenum Marketing Corporation	Delaware	Same
Climax Molybdenum U.K. Limited	United Kingdom	Same
Cobre Mining Company	New Mexico	Same
Compania Contractual Minera Candelaria	Chile	Same
Compania Contractual Minera Ojos del Salado	Chile	Same
Copper Market, Inc.	Arizona	Same
Cyprus Amax Chile Holdings, Inc.	Delaware	Same
Cyprus Amax Minerals Company	Delaware	Same
Cyprus Climax Metals Company	Delaware	Same
Cyprus Copper Marketing Corporation	Delaware	Same
Cyprus El Abra Corporation	Delaware	Same
Cyprus Exploration and Development Corporation	Delaware	Same
Cyprus Metals Company	Delaware	Same
Cyprus Minera de Chile, Inc.	Delaware	Same
Cyprus Mines Corporation	Delaware	Same
Cyprus Specialty Metals Company	Delaware	Same
Cyprus Tohono Corporation	Delaware	Same
Dodge & James Insurance Company, Ltd.	Bermuda	Same
FM Services Company	Delaware	Same
Freeport-McMoRan Copper & Gold China Corporation	Cayman Islands	Same
Freeport-McMoRan Exploration Corporation	Delaware	Same
Habirshaw Cable and Wire Corporation	New York	Same
Hidalgo Mining, LLC	New Mexico	Same
James Douglas Insurance Company, Ltd.	Bermuda	Same
Kinetics Climax, Inc.	Delaware	Same
Makilala Holding Limited	British Virgin Islands	Same
Metallic Ventures, Inc.	Nevada	Same
Minera Aurex (Chile) Limitada	Chile	Same

Minera Cyprus Amax Chile Limitada	Chile	Same
Minera Cyprus Chile Limitada	Chile	Same
Missouri Lead Smelting Company	Delaware	Same
Mt. Emmons Mining Company	Delaware	Same
Pacific Western Land Company	California	Same
PD Bermuda Finance Company Ltd.	Bermuda	Same
PD Candelaria, Inc.	Delaware	Same
PD Cayman Corporation	Cayman Islands	Same
PD Chile Finance Company	Delaware	Same
PD Chile Holding Company Limitada	Chile	Same
PD Chile Investments, LLC	Delaware	Same
PD Cobre, Inc.	Delaware	Same
PD Ojos del Salado, Inc.	Delaware	Same
PD Peru, Inc.	Delaware	Same
PDM Energy, L.L.C.	Arizona	Same
Phelps Dodge Ajo, Inc.	Delaware	Same
Phelps Dodge Australasia, Inc.	Delaware	Same
Phelps Dodge Bagdad, Inc.	Delaware	Freeport-McMoRan Copper & Gold - Bagdad
Phelps Dodge Chicago Rod, Inc.	Delaware	Freeport-McMoRan Copper & Gold - Chicago
Phelps Dodge Chino, Inc.	Delaware	Same
Phelps Dodge Corporation	New York	Freeport-McMoRan Copper & Gold - Phoenix
Phelps Dodge Corporation of Canada, Limited	Delaware	Same
Phelps Dodge Development Corporation	Delaware	Same
Phelps Dodge Energy Services, LLC	Delaware	Same
Phelps Dodge High Performance Conductors of NJ, Inc.	New Jersey	Same
Phelps Dodge Industries, Inc.	Delaware	Same
Phelps Dodge Katanga Corporation	Delaware	Same
Phelps Dodge Magnet Wire (Austria) GmbH	Austria	Same
Phelps Dodge Mercantile Company	New York	Same
Phelps Dodge Miami, Inc.	Delaware	Freeport-McMoRan Copper & Gold - Miami
Phelps Dodge Mining (Zambia) Limited	Zambia	Same
Phelps Dodge Mining Services, Inc.	Delaware	Same
Phelps Dodge Molybdenum Corporation	Delaware	Same
Phelps Dodge Morenci, Inc.	Delaware	Freeport-McMoRan Copper & Gold - Morenci
Phelps Dodge of Africa, Ltd.	Delaware	Same
Phelps Dodge Overseas Capital Corporation	Delaware	Same
Phelps Dodge Power Marketing, LLC	Delaware	Same
Phelps Dodge Refining Corporation	New York	Same
Phelps Dodge Safford, Inc.	Delaware	Freeport-McMoRan Copper & Gold - Safford
Phelps Dodge Sales Company, Incorporated	Delaware	Freeport-McMoRan Sales
Phelps Dodge Sierrita, Inc.	Delaware	Freeport-McMoRan Copper & Gold - Sierrita
Phelps Dodge South Africa (Proprietary) Limited	South Africa	Same
Phelps Dodge Tyrone, Inc.	Delaware	Freeport-McMoRan Copper & Gold - Tyrone
PT Freeport Indonesia	Indonesia & Delaware	Same
PT Irja Eastern Minerals	Indonesia	Same
PT Puncakjaya Power	Indonesia	Same
Silver Springs Ranch, Inc.	Colorado	Same
Sociedad Contractual Minera El Abra	Chile	Same
Sociedad Minera Cerro Verde S.A.	Peru	Same
Soner, Inc.	New Jersey	Same
Tenke Fungurume Mining S.A.R.L. <sup>(a)</sup>	Congo	Same
TF Holdings Limited <sup>(b)</sup>	Bermuda	Same
The Morenci Water & Electric Company	Arizona	Same
Tyrone Mining, LLC	New Mexico	Same
United States Metals Refining Company	Delaware	Same
Western Nuclear Australia Limited	Delaware	Same
Western Nuclear, Inc.	Delaware	Same

(a) 17.5% owned by La Générale des Carrières et des Mines.

(b) 30% owned by Tenke Holdings Ltd.

Omitted from this listing are subsidiaries that, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.